

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

CASE NO.: 1:11-CV-1925

ADT SECURITY SERVICES, INC.,

Plaintiff,

v.

ELEPHANT GROUP, INC.,

Defendant.

\_\_\_\_\_ /

Veritext, Inc.

301 NE 51st Street, Ste. 1240

Boca Raton, Florida 33431

Thursday, May 8, 2014

9:00 a.m. - 3:00 p.m.

DEPOSITION OF DAPHNE FERNANDES

Pages 1-177

Taken before Tambria Lee Dery, RPR, FPR,  
Registered Professional Reporter, Florida  
Professional Reporter and Notary Public in and for  
the State of Florida at Large, pursuant to Notice of  
Taking Deposition filed in the above cause.

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Job No. CS1837727

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 SARA GOLDBERG, ESQUIRE</p> <p>4 SANDERS MCNEW, ESQUIRE</p> <p>5 McNew, P.A.</p> <p>6 2385 NW Executive Center Dr. #100</p> <p>7 Boca Raton, Florida 33431</p> <p>8 on behalf of the Plaintiff.</p> <p>9</p> <p>10 DANIEL W. PISANI, ESQUIRE</p> <p>11 JAMES K. SCHULTZ, ESQUIRE</p> <p>12 Sessions Fishman Nathan &amp; Israel, LLC</p> <p>13 55 West Monroe Street, Suite 1120</p> <p>14 Chicago, Illinois 60603</p> <p>15 on behalf of the Defendant.</p> <p>16</p> <p>17 ALSO PRESENT:</p> <p>18 DAN GEIGER, ADT.</p> <p>19 JOSEPH BAMIRA, ELEPHANT GROUP.</p> <p>20 PAULA MCKANE, ELEPHANT GROUP.</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 E-X-H-I-B-I-T-S</p> <p>2 PLAINTIFF'S EXHIBIT 1: 16</p> <p>3 (Agreement)</p> <p>4 PLAINTIFF'S EXHIBIT 2: 22</p> <p>5 (ADT Contract 6/14/07)</p> <p>6 PLAINTIFF'S EXHIBIT 3: 33</p> <p>7 (Addendum One To PMG)</p> <p>8 PLAINTIFF'S EXHIBIT 4: 60</p> <p>9 (4/8/11 E-mail)</p> <p>10 PLAINTIFF'S EXHIBIT 5: 70</p> <p>11 (3/18/11 E-mail)</p> <p>12</p> <p>13 PLAINTIFF'S EXHIBIT 6: 75</p> <p>14 (4/11/11 &amp; 4/13/11 E-mails)</p> <p>15 PLAINTIFF'S EXHIBIT 7: 77</p> <p>16 (4/20/11 E-mail)</p> <p>17</p> <p>18 PLAINTIFF'S EXHIBIT 8: 88</p> <p>19 (6/10/11 E-mail)</p> <p>20 PLAINTIFF'S EXHIBIT 9: 95</p> <p>21 (2/28/11 E-mail)</p> <p>22</p> <p>23 PLAINTIFF'S EXHIBIT 10: 97</p> <p>24 (2/25/11 &amp; 2/28/11 E-mails)</p> <p>25 PLAINTIFF'S EXHIBIT 11: 97</p> <p>(2/16/11 E-mail)</p> <p>PLAINTIFF'S EXHIBIT 12: 99</p> <p>(6/20/11 E-mail)</p> <p>PLAINTIFF'S EXHIBIT 13: 101</p> <p>(5/19/11 E-mail)</p> <p>PLAINTIFF'S EXHIBIT 14: 108</p> <p>(Plaintiff's 1st Set of Interrogatories)</p> <p>PLAINTIFF'S EXHIBIT 15: 116</p> <p>(Addendum One to Affiliate)</p> <p>PLAINTIFF'S EXHIBIT 16: 126</p> <p>(PMG Commissions)</p>
<p style="text-align: right;">Page 3</p> <p>1 I-N-D-E-X</p> <p>2</p> <p>3 EXAMINATION PAGE</p> <p>4 DIRECT EXAMINATION BY MS. GOLDBERG: 5</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1 PLAINTIFF'S EXHIBIT 17: 137</p> <p>2 (8/16/11 E-mail)</p> <p>3 PLAINTIFF'S EXHIBIT 18: 144</p> <p>4 (8/25/11 E-mail)</p> <p>5 PLAINTIFF'S EXHIBIT 19: 147</p> <p>6 (EMI Transfer Service Order)</p> <p>7 PLAINTIFF'S EXHIBIT 20: 153</p> <p>8 (9/29/11 E-mail)</p> <p>9 PLAINTIFF'S EXHIBIT 21: 155</p> <p>10 (4/26/11 E-mail)</p> <p>11</p> <p>12 PLAINTIFF'S EXHIBIT 22: 157</p> <p>13 (10/20/11 E-mail)</p> <p>14 PLAINTIFF'S EXHIBIT 23: 161</p> <p>15 (10/6/11 E-mail)</p> <p>16</p> <p>17 PLAINTIFF'S EXHIBIT 24: 161</p> <p>18 (1/16/12 &amp; 1/17/12 E-mails)</p> <p>19 PLAINTIFF'S EXHIBIT 25: 161</p> <p>20 (5/13/11 E-mail)</p> <p>21</p> <p>22 PLAINTIFF'S EXHIBIT 26: 166</p> <p>23 (5/16/11 E-mail)</p> <p>24 PLAINTIFF'S EXHIBIT 27: 168</p> <p>25 (4/21/11 E-mail)</p> <p>PLAINTIFF'S EXHIBIT 28: 168</p> <p>(7/15/11 E-mail, Confidential)</p>

<p style="text-align: right;">Page 6</p> <p>1 THEREUPON,  2 DAPHNE FERNANDES  3 having been first duly sworn, and answered,  4 "Yes," testified upon her oath as follows:  5 DIRECT EXAMINATION  6 BY MS. GOLDBERG:  7 Q Good morning. My name is Sarah Goldberg.  8 I'm an attorney and I represent ADT in this action.  9 Have you ever been deposed before?  10 A Yes.  11 Q Okay. I'm just going to quickly review  12 some of the basics just so you know. I'm going to  13 ask you a series of questions which you're going to  14 answer under oath. If at any time, you don't  15 understand any of my questions, let me know and I'll  16 rephrase it.  17 A Okay.  18 Q All your answers have to be verbal. We  19 have a court reporter that's writing it down, so  20 don't just nod your head, actually verbalize your  21 answer.  22 A Okay.  23 Q Finally, if you need a break at any point,  24 just let me know. My only request is that if  25 there's a question pending, you answer the question</p>	<p style="text-align: right;">Page 8</p> <p>1 Q Do you understand what I'm saying?  2 A No.  3 Q You're here as a representative of the  4 company. If I ask you a question and you may or my  5 not have personal knowledge about the answer, but  6 the company has knowledge about it, if there's a  7 distinction between what you know and what the  8 company knows, then just so indicate in your answer.  9 A Okay.  10 Q What is Saveology's business?  11 A Home services. We are resellers of phone,  12 internet, cable, satellite.  13 Q You're resellers?  14 A Resellers.  15 Q And how long has Saveology been in this  16 business?  17 A I don't know the exact date.  18 Q Can you explain to me more in detail, what  19 does that mean that you're resellers?  20 A Oh, we have partners, just as we did with  21 ADT and resold their products and services.  22 Q How do you do that?  23 A Through different marketing channels.  24 Q Can you give me examples of some of those  25 marketing channels?</p>
<p style="text-align: right;">Page 7</p> <p>1 and then we can take a break.  2 A Okay.  3 Q Can you please state your full name for  4 the record?  5 A Daphne Fernandez.  6 Q And where do you work?  7 A Saveology.  8 Q You are appearing here today in your  9 personal capacity and as a representative of the  10 company, is that correct?  11 A Correct.  12 Q Okay. I'm just going to show you, these  13 are Amended Notices of Deposition. Have you seen  14 these?  15 A Yes.  16 Q Okay. And you're appearing here today  17 under both of those deposition notices?  18 MR. PISANI: Well, the deposition notice  19 was for the 30(b)(6). And then we --  20 MS. GOLDBERG: And a personal one, right.  21 BY MS. GOLDBERG:  22 Q So if I ask you a question and your answer  23 differs based on your personal knowledge or the  24 knowledge of the company, please let me know.  25 A Okay.</p>	<p style="text-align: right;">Page 9</p> <p>1 A Sure, online and off line, paid search,  2 direct mail.  3 Q Do you do telemarketing as well?  4 A Not unsolicited, no.  5 Q What is the relationship between Saveology  6 and Elephant Group?  7 A Elephant Group is the parent company.  8 Q During the period from let's say 2007  9 through 2012, did Saveology provide services for a  10 variety of companies during that period, 2007  11 through 2012?  12 A Through a variety of partner companies?  13 I'm not sure I understand that question.  14 Q Did Saveology work for ADT during that  15 period?  16 A Yes.  17 Q What other companies did it work for  18 during that period?  19 A Comcast, Verizon, AT&amp;T, Tom Warner, Cox.  20 There's about 20 providers.  21 Q Okay. What is your job title?  22 A Currently, director of merchant services.  23 Q How long has that been your title?  24 A Since about I want to say July or so of  25 2013.</p>

<p style="text-align: right;">Page 10</p> <p>1 Q And prior to July, 2013, what was your 2 title? 3 A Director of operations. 4 Q How long did you hold that position? 5 A From about 2008 until July I guess of last 6 year. 7 Q Okay. And as director of operations, what 8 were your duties and responsibilities? 9 A It was for the home security division. 10 Q Can you tell me specifically what did you 11 do as director of operations for the home security 12 division? 13 A Managed all operations within the ADT 14 business. 15 Q Just for ADT? 16 A There were some other providers I worked 17 for, yes. 18 Q Could you describe some of your daily 19 responsibilities, the kinds of things you would do 20 on a day-to-day basis? 21 A Oversee what the sales are, the marketing 22 channels, the DNC scrubs, numbers. 23 Q Prior to your position as director of 24 operations, did you have another title at Saveology? 25 A Yes, I did.</p>	<p style="text-align: right;">Page 12</p> <p>1 Q And what do those companies do? 2 A List management package inserts as well. 3 It's all direct mail. 4 Q During that time that you were director of 5 operations, you said from approximately 2008 to 6 2013, who did you report to? 7 A Reid Shapiro. 8 Q And did anybody report to you? 9 A Yes. 10 Q Who did? 11 A All the employee's names? 12 Q Was it a particular group or if it was a 13 number of employees, could you tell me how many 14 employees? 15 A It was everyone that worked on the home 16 security, so approximately five direct reports. 17 Q Okay. So everyone who worked in the home 18 security division reported to you? 19 A Yes. 20 Q Was that more than five people? 21 A Of my direct reports? 22 Q Direct reports, right. Five people 23 directly reported to you, but are there other people 24 in the division? 25 A Yes.</p>
<p style="text-align: right;">Page 11</p> <p>1 Q What was that? 2 A Well, it was director of operations for 3 another division. 4 Q And what division was that? 5 A Homes media. 6 Q What did that division do? 7 A It was the new mover program. It was 8 package inserts where it was direct mail to new 9 homeowners. 10 Q Did that involve work with security 11 systems? 12 A We inserted the ADT pamphlet into the 13 direct mail offer. 14 Q And had you been at Saveology in another 15 position prior to that? 16 A No. 17 Q Approximately how long have you been 18 working at Saveology? 19 A Since March of 2007. 20 Q Where did you work before Saveology? 21 A For a few different list companies, Fred 22 Singer. 23 Q I'm sorry, what were those companies? 24 A I think it's called Singer Direct and also 25 Media Advisers Group.</p>	<p style="text-align: right;">Page 13</p> <p>1 Q And who did they report to? 2 A The agents reported to the call center 3 managers. 4 Q And the call center managers reported to 5 you? 6 A Reported to a VP or a director of the call 7 center to which I had, I had a relationship with 8 there. 9 Q I'm sorry, if you could just give me a 10 sense of how many people there were and who they 11 reported to in the divisions so I understand the 12 structure of the division. 13 A There are call center agents. 14 Q Uh-huh. 15 A That actually take the phone calls that 16 report up to team leads. The team leads then report 17 to a director within the call center. Call center 18 operations. 19 Q And that's you? 20 A No. 21 Q Oh. 22 A That's a different director. That's a 23 call center operations. 24 Q And who did the director of call center 25 operations report to?</p>

<p style="text-align: right;">Page 14</p> <p>1 A I don't know. I don't remember.</p> <p>2 Q And you said there were five direct</p> <p>3 reports that reported to you?</p> <p>4 A Yes.</p> <p>5 Q What was the position of those five</p> <p>6 individuals?</p> <p>7 A To process all of the orders, to do the</p> <p>8 verification of every order, to communicate back and</p> <p>9 forth with someone at ADT, who to report the scores</p> <p>10 to and things like that, the credit scores.</p> <p>11 Q Did you have responsibility for</p> <p>12 telemarketing compliance issues?</p> <p>13 MR. PISANI: I'm going to object to the</p> <p>14 use of the term telemarketing. She's already</p> <p>15 made a distinction between the unsolicited</p> <p>16 telemarketing, so maybe you can define that</p> <p>17 term.</p> <p>18 BY MS. GOLDBERG:</p> <p>19 Q Tell me what kind of telemarketing did</p> <p>20 Saveology do?</p> <p>21 A In regards to ATD?</p> <p>22 Q ATD.</p> <p>23 A It was telemarketing was defined as any</p> <p>24 outbound call to an opt in.</p> <p>25 Q So we'll use that definition, outbound</p>	<p style="text-align: right;">Page 16</p> <p>1 divisions now.</p> <p>2 Q Was there anyone else in the company that</p> <p>3 was responsible for telemarketing compliance?</p> <p>4 A For ADT?</p> <p>5 Q For ADT.</p> <p>6 A Not that I can remember.</p> <p>7 Q Okay.</p> <p>8 MS. GOLDBERG: Why don't we mark this as</p> <p>9 Exhibit 1.</p> <p>10 (Plaintiff's Exhibit 1 was marked for</p> <p>11 identification.)</p> <p>12 BY MS. GOLDBERG:</p> <p>13 Q Have you ever seen this before?</p> <p>14 A Yes.</p> <p>15 Q Was this produced by Saveology?</p> <p>16 A What do you mean?</p> <p>17 Q You'll note on the bottom, it has a Bates</p> <p>18 number SAV with a number. Do you know, was this</p> <p>19 produced by Saveology in this litigation?</p> <p>20 MR. PISANI: Don't guess if you don't</p> <p>21 know.</p> <p>22 THE WITNESS: I don't know.</p> <p>23 BY MS. GOLDBERG:</p> <p>24 Q Okay. When was the first time you saw</p> <p>25 this agreement?</p>
<p style="text-align: right;">Page 15</p> <p>1 calls to an opt in.</p> <p>2 A Absolutely. Nothing unsolicited.</p> <p>3 Q I understand. We'll use that definition</p> <p>4 for telemarketing. Did you have responsibilities</p> <p>5 for telemarketing compliance?</p> <p>6 A Yes.</p> <p>7 Q Were you trained in telemarketing</p> <p>8 compliance?</p> <p>9 A Yes.</p> <p>10 Q Who were you trained by?</p> <p>11 A My previous positions, there was many</p> <p>12 dealings with list.</p> <p>13 Q Did you have any formal training or was it</p> <p>14 just training on-the-job sort of experience?</p> <p>15 A It was training on the job. We had</p> <p>16 courses, I don't remember the names of the courses,</p> <p>17 though.</p> <p>18 Q Who would you generally consult with when</p> <p>19 you had a question or concern about telemarketing</p> <p>20 compliance?</p> <p>21 A Internally?</p> <p>22 Q Uh-huh.</p> <p>23 A Joseph Bamira, our paralegals. And then</p> <p>24 we also had a direct contact at compliance point,</p> <p>25 which is also PossibleNow. There's two different</p>	<p style="text-align: right;">Page 17</p> <p>1 A Somewhere in 2008.</p> <p>2 Q Do you know who negotiated this agreement?</p> <p>3 A I do not know.</p> <p>4 Q Do you know who drafted the agreement?</p> <p>5 A No idea.</p> <p>6 Q Can you tell me who signed the agreement</p> <p>7 on behalf of Saveology?</p> <p>8 A Do I get to look at it?</p> <p>9 Q Yes, of course. Feel free.</p> <p>10 A I don't want to take a guess.</p> <p>11 Q Take a look at Page 28, the signature page</p> <p>12 is Page 28.</p> <p>13 A Well, I didn't know if it was a test.</p> <p>14 Benny Aboud.</p> <p>15 Q Thank you. You said you first saw it</p> <p>16 sometime in 2008. Did you read the agreement?</p> <p>17 A I did.</p> <p>18 Q Were you aware that the agreement</p> <p>19 prohibits assignment without ATD's express written</p> <p>20 consent?</p> <p>21 MR. PISANI: I'm going to object to the</p> <p>22 assumption of what the agreement provides. If</p> <p>23 you could point her to a specific page?</p> <p>24 MS. GOLDBERG: Sure.</p> <p>25</p>

5 (Pages 14 - 17)

<p style="text-align: right;">Page 18</p> <p>1 BY MS. GOLDBERG:</p> <p>2 Q Take a look at Paragraph 17, Page 11.</p> <p>3 There's a paragraph there entitled Assignment. Were</p> <p>4 you aware of this assignment provision in the</p> <p>5 agreement?</p> <p>6 A Do I have a moment to read this?</p> <p>7 Q Yes, of course, please. Take your time.</p> <p>8 A Okay.</p> <p>9 Q Were you aware that this agreement has</p> <p>10 restrictions on assignment that requires ADT's</p> <p>11 express written consent?</p> <p>12 MR. PISANI: I'm just going to object as</p> <p>13 to the potential mischaracterization of the</p> <p>14 contract. I think the contract speaks for</p> <p>15 itself. If you want to ask her --</p> <p>16 MS. GOLDBERG: So let me rephrase that</p> <p>17 question.</p> <p>18 BY MS. GOLDBERG:</p> <p>19 Q Were you aware that there was a provision</p> <p>20 concerning assignment of this agreement?</p> <p>21 A I'm still not really understanding what</p> <p>22 you're asking me.</p> <p>23 Q Okay. Let me think of a way to rephrase</p> <p>24 this. Let me go another route. Can you tell me,</p> <p>25 what was the purpose of this agreement?</p>	<p style="text-align: right;">Page 20</p> <p>1 for itself. I mean, if you want to ask -- I</p> <p>2 just think it's an unfair question.</p> <p>3 MS. GOLDBERG: Let me rephrase it.</p> <p>4 BY MS. GOLDBERG:</p> <p>5 Q Let me ask you something else. Was there</p> <p>6 ever any discussion among anyone at Saveology</p> <p>7 concerning the terms of this agreement?</p> <p>8 A Yes.</p> <p>9 Q Were you a part of those discussions?</p> <p>10 A When, when I was asking a question, yes.</p> <p>11 The initial negotiation of this, no.</p> <p>12 Q Okay. And you said you had asked some</p> <p>13 questions about the terms of the agreement?</p> <p>14 A Yes, specifically the marketing</p> <p>15 guidelines.</p> <p>16 Q Okay. And to whom did you direct those</p> <p>17 questions?</p> <p>18 A At the time who the CMO was.</p> <p>19 Q And who was this?</p> <p>20 A In the very beginning, Zevi Friedman.</p> <p>21 Q Did you ever hear anyone at Saveology</p> <p>22 discuss the assignment provision in this agreement?</p> <p>23 A No.</p> <p>24 Q Did you ever see any documents at</p> <p>25 Saveology, whether e-mails or memos, concerning the</p>
<p style="text-align: right;">Page 19</p> <p>1 A What was the purpose?</p> <p>2 MR. PISANI: Do you understand the</p> <p>3 question?</p> <p>4 THE WITNESS: No.</p> <p>5 BY MS. GOLDBERG:</p> <p>6 Q What is your understanding of what this</p> <p>7 agreement was intended to do?</p> <p>8 A Allow us to resell ADT. I'm really not</p> <p>9 sure, you know.</p> <p>10 Q What was Saveology's, what was Saveology</p> <p>11 supposed to do during the terms of this agreement?</p> <p>12 MR. PISANI: I'm going to object. I think</p> <p>13 it's an unfair question. I think it's a</p> <p>14 68-page document, it has a lot of provisions in</p> <p>15 it. I think -- so I mean, there's a lot of --</p> <p>16 MS. GOLDBERG: Fair enough. I'm not</p> <p>17 asking her for a legal conclusion.</p> <p>18 BY MS. GOLDBERG:</p> <p>19 Q What was the nature of Elephant Group and</p> <p>20 ADT's relationship, why was this agreement done?</p> <p>21 A Do you want me to make an assumption?</p> <p>22 Q No, I'm just asking what was your</p> <p>23 understanding of this agreement?</p> <p>24 MR. PISANI: That's the same objection.</p> <p>25 It's a lengthy document, the agreement speaks</p>	<p style="text-align: right;">Page 21</p> <p>1 assignment provision in this agreement?</p> <p>2 A Not that I'm aware of.</p> <p>3 MS. GOLDBERG: Let's mark this as 2.</p> <p>4 (Plaintiff's Exhibit 2 was marked for</p> <p>5 identification.)</p> <p>6 MS. GOLDBERG: Take a moment to look at</p> <p>7 it. When you're done, you can look up.</p> <p>8 THE WITNESS: Okay.</p> <p>9 BY MS. GOLDBERG:</p> <p>10 Q Have you ever seen this before?</p> <p>11 A No. Not that I can recall.</p> <p>12 Q Do you have any idea who wrote it?</p> <p>13 A No.</p> <p>14 Q Do you know to whom it was distributed?</p> <p>15 A I do not.</p> <p>16 Q Do you know if this was an attachment to</p> <p>17 an e-mail or a memorandum?</p> <p>18 A I don't know.</p> <p>19 Q Who in the company would know who wrote</p> <p>20 this document?</p> <p>21 A I don't know.</p> <p>22 Q Do you have a custodian who is in charge</p> <p>23 of maintaining documents at the company?</p> <p>24 A I would assume our paralegal.</p> <p>25 Q Is it standard practice at Saveology for</p>



<p style="text-align: right;">Page 22</p> <p>1 somebody to draft a document concerning the 2 highlights of a specific contract? 3 A I can't speak on behalf of the company for 4 that. 5 Q You're here today to speak on behalf of 6 the company. 7 MR. PISANI: Not with regard to a -- just 8 for the record, the Exhibit 2 you've just 9 handed her is referencing a contract. 10 MS. GOLDBERG: I'm well aware. 11 MR. PISANI: Predating the prior exhibits. 12 BY MS. GOLDBERG: 13 Q I'm just asking is it standard practice at 14 Saveology to have Saveology employees write up the 15 standards of a contract? 16 A I don't know. 17 Q Have you ever seen similar highlights of a 18 different contract? 19 A Yes. 20 Q You've seen other documents that list the 21 main points of another contract? 22 A Yes. 23 Q Have you ever seen a document similar to 24 this that lists contractual highlights for the 25 May 28th, 2008 contract, what we've marked as</p>	<p style="text-align: right;">Page 24</p> <p>1 started their contract with AT&amp;T. 2 BY MS. GOLDBERG: 3 Q They currently have a contract with AT&amp;T? 4 A Yes. 5 Q And you don't know when that first began? 6 A No. 7 Q Do you believe that this provision is 8 intended to name AT&amp;T? 9 MR. PISANI: Objection. You're asking 10 her -- you're asking about a document that 11 she's never seen before and you're showing her 12 for the first time and you're asking her what 13 she believes about it. I think it's an unfair 14 question and improper. 15 MS. GOLDBERG: She's here as a 16 representative of the company. This is a 17 document produced by the company. 18 BY MS. GOLDBERG: 19 Q It says ADT contract nonfinancial 20 highlights. So when I saw AT&amp;T, I wanted to ask, do 21 you believe that was intended to be AT&amp;T or is it a 22 typo? 23 MR. PISANI: Same objection. You can 24 answer if you want. 25 THE WITNESS: I can't answer on behalf of</p>
<p style="text-align: right;">Page 23</p> <p>1 Exhibit 1? 2 A Not that I could recall. 3 Q This says ADT contract 6-14-07. Are you 4 familiar with a contract with ADT of that date? 5 A I am not. 6 Q Okay. Can you tell me why this was 7 drafted? 8 A I -- 9 MR. PISANI: She's said she's never seen 10 it before. I don't know if she's going to be 11 able to answer that question. 12 BY MS. GOLDBERG: 13 Q Take a look at Paragraph 5. It says 14 assignment. Assignment is not permitted without 15 prior consent of, and then it says AT&amp;T. Is it fair 16 to assume that that was a typo? 17 MR. PISANI: Objection. She's never seen 18 the document, I don't know how she's going to 19 assume anything about this document. 20 BY MS. GOLDBERG: 21 Q Did Saveology have a relationship with 22 AT&amp;T? 23 MR. PISANI: At what point in time? 24 MS. GOLDBERG: 2007, 2008. 25 THE WITNESS: I don't know when they</p>	<p style="text-align: right;">Page 25</p> <p>1 whoever wrote this. 2 BY MS. GOLDBERG: 3 Q Read the rest of Paragraph 5. 4 A Okay. 5 Q Is Paragraph 5 concerning the restrictions 6 on assignment, is that consistent with your 7 understanding of the ADT agreement that we've marked 8 as Exhibit 1? 9 MR. PISANI: Objection. 10 MS. GOLDBERG: You can answer. 11 THE WITNESS: Repeat the question. 12 BY MS. GOLDBERG: 13 Q Is Paragraph 5 consistent with your 14 understanding of the agreement with ADT that we've 15 marked as Exhibit 1? 16 MR. PISANI: Same objection. You're 17 asking her whether this is, this Paragraph 5 in 18 a different, some different document summarizes 19 or is consistent with a subsequent document? I 20 think the document, I think the documents speak 21 for themselves. You can answer if you 22 understand the question. 23 THE WITNESS: I don't know. 24 BY MS. GOLDBERG: 25 Q Have you ever seen any other document at</p>

7 (Pages 22 - 25)

<p style="text-align: right;">Page 26</p> <p>1 Saveology that demonstrated a different 2 understanding of the assignment provision with ADT? 3 A Not that I'm aware of. 4 Q Did you see any other document at all that 5 referred to assignment of an ADT contract? 6 A Not that I can recall. 7 Q Does Saveology maintain a written 8 telemarketing policy? 9 A Yes. 10 Q Is it distributed to others? 11 A Yes. 12 Q To whom is it distributed? 13 A The compliance department. 14 Q Anyone else? 15 A The trainers, the agents, the agents are 16 all trained. 17 Q And do you maintain a Do Not Call List? 18 A Yes. 19 Q And do you update it? 20 A Yes. 21 Q How often? 22 A Immediately, daily. 23 Q And do you use a DNC compliance provider? 24 A Yes. 25 Q Who is that?</p>	<p style="text-align: right;">Page 28</p> <p>1 Q Somebody referred Paramount to Saveology? 2 A Yes. 3 Q And who was that? 4 A I don't remember the name of the company 5 at the time. It was one of our other partner 6 companies that was working with a different division 7 of our company. 8 Q Do you refer to Paramount also as an 9 affiliate of Saveology? 10 A Internally, that's kind of what we call 11 them. 12 Q And why did this other company refer 13 Paramount to Saveology? 14 A As a, as a lead provider. 15 Q Had that other company used Paramount as a 16 lead provider? 17 A I don't know. I don't recall. 18 Q Who specifically at Saveology was 19 contacted about Paramount? 20 A Initially, Thariana. 21 Q I'm sorry? 22 A Thariana. 23 Q Who was that? 24 A She was one of my direct reports. 25 Q What's her last name?</p>
<p style="text-align: right;">Page 27</p> <p>1 A PossibleNow. 2 Q Are you familiar with the Telephone 3 Consumer Protection Act? 4 A Not in detail, not word by word, but yes, 5 I'm familiar. 6 Q Okay. Have you ever discussed that with 7 others at Saveology, aside from counsel? 8 A As to what it means? 9 Q Yes, what the requirements of the TCPA, 10 for example. 11 A Oh, yes. 12 Q Did you ever obtain written approval from 13 ADT to use prerecorded messages? 14 A No. 15 Q Are you familiar with Paramount Media 16 Group? 17 A Yes. 18 Q Can you tell me who were they? 19 A They're one of our partner companies. 20 Q When did Saveology first have a 21 relationship with Paramount? 22 A At the end of 2010. 23 Q And how did that come about? 24 A It was a referral from one of our other 25 partner companies.</p>	<p style="text-align: right;">Page 29</p> <p>1 A Chupina. 2 Q And what was her position? 3 A She was an assistant to me. 4 Q And what was her experience with 5 Paramount? 6 A She didn't have any. She forwarded the 7 e-mail to me. 8 Q Oh. 9 A You asked who was the first contact. 10 That's what I know. 11 Q And did you reach out and contact 12 Paramount? 13 A Yes, I did. 14 Q What did that e-mail say that she 15 forwarded to you? 16 A Oh, I don't remember word-for-word off the 17 top of my head. 18 Q Was that e-mail from Paramount or from 19 someone else that was referring them? 20 A Yes, it was from Paramount. 21 Q And you don't recall the contents of that 22 e-mail at all? 23 A What it said? 24 Q Approximately what it said, the general 25 nature of that e-mail.</p>



<p style="text-align: right;">Page 30</p> <p>1 A No. I would have to see it in front of</p> <p>2 me. Sorry.</p> <p>3 Q Okay.</p> <p>4 A It was --</p> <p>5 Q And what did you do with that e-mail once</p> <p>6 you received it?</p> <p>7 A I contacted Ryan Neill.</p> <p>8 Q And what was the substance of that</p> <p>9 conversation?</p> <p>10 A He was interested in providing home</p> <p>11 security leads, so it was an introduction to each</p> <p>12 other.</p> <p>13 Q Any other items discussed in that</p> <p>14 conversation?</p> <p>15 A It was general about becoming a partner</p> <p>16 company with us.</p> <p>17 Q Okay. And following that conversation,</p> <p>18 what did you do then?</p> <p>19 A I had Ryan Neill go to Saveology Networks</p> <p>20 to fill out the agreement online.</p> <p>21 Q Fill me in, because I'm not familiar.</p> <p>22 What is Saveology Networks?</p> <p>23 A That is the department that handles most</p> <p>24 of our partner companies.</p> <p>25 Q And there is an online application to</p>	<p style="text-align: right;">Page 32</p> <p>1 with for any other product.</p> <p>2 Q I'm sorry, what are they looking for when</p> <p>3 they check the database?</p> <p>4 A To see if they're working on any of our</p> <p>5 other products.</p> <p>6 Q To see if they have an existing</p> <p>7 relationship with Paramount?</p> <p>8 A Correct, or had a prior relationship.</p> <p>9 Q Did Saveology have a prior relationship</p> <p>10 with Paramount?</p> <p>11 A Not to my knowledge.</p> <p>12 Q When I ask you specifically what due</p> <p>13 diligence was done, you said you're not familiar</p> <p>14 with that?</p> <p>15 A I'm not exactly sure what the checklist</p> <p>16 is, no.</p> <p>17 Q Who would know that?</p> <p>18 A Someone in the product company division.</p> <p>19 Q Who is in charge of product division?</p> <p>20 A We've had some changes internally, so to</p> <p>21 the best of my knowledge, John Hyatt.</p> <p>22 Q What's the last name?</p> <p>23 A Hyatt.</p> <p>24 MR. PISANI: Like the singer Hyatt?</p> <p>25 THE WITNESS: H-Y-A-T-T. I don't know.</p>
<p style="text-align: right;">Page 31</p> <p>1 become a partner company?</p> <p>2 A Yes.</p> <p>3 Q And did Paramount fill out an online</p> <p>4 application?</p> <p>5 A Yes.</p> <p>6 Q And what's done with that application?</p> <p>7 A It goes through the partner company</p> <p>8 division.</p> <p>9 Q What does the partner company division do</p> <p>10 with the application?</p> <p>11 A Reviews it, checked out the name, does</p> <p>12 their due diligence.</p> <p>13 Q Can you tell me what specifically what due</p> <p>14 diligence did they do?</p> <p>15 A I don't know. I don't know exactly what</p> <p>16 they did for Paramount.</p> <p>17 Q What is their usual practice when they get</p> <p>18 an application to be a partner company?</p> <p>19 A To my knowledge, because I do not work for</p> <p>20 that department, it's just the review of the name,</p> <p>21 check the database. I really can't answer it more</p> <p>22 what exactly they do.</p> <p>23 Q What do you mean check the database?</p> <p>24 A Check our partner company database of all</p> <p>25 the other, any other partner company that we work</p>	<p style="text-align: right;">Page 33</p> <p>1 BY MS. GOLDBERG:</p> <p>2 Q Had Saveology worked with Ryan Neill</p> <p>3 before?</p> <p>4 A Not to my knowledge.</p> <p>5 MS. GOLDBERG: Let's mark this as 3.</p> <p>6 (Plaintiff's Exhibit 3 was marked for</p> <p>7 identification.)</p> <p>8 MS. GOLDBERG: Take a moment to look at</p> <p>9 that and you can just look up when you're</p> <p>10 ready.</p> <p>11 BY MS. GOLDBERG:</p> <p>12 Q Is this your agreement with, is this</p> <p>13 Saveology's agreement with Paramount Media Group?</p> <p>14 A Yes.</p> <p>15 Q At the top, it says Addendum 1 to</p> <p>16 Paramount Media Group. And the first line says,</p> <p>17 This Addendum 1, dot dot dot, amends the affiliate</p> <p>18 agreement, the agreement dated 10-12-10. Is there a</p> <p>19 separate agreement called an Affiliate Agreement?</p> <p>20 A That's the Saveology Network Agreement</p> <p>21 online that we discussed prior.</p> <p>22 Q So is that an application or an actual</p> <p>23 agreement between the two parties?</p> <p>24 A I guess you would call it an agreement.</p> <p>25 It's one of -- it's both. There's different pieces</p>

<p style="text-align: right;">Page 34</p> <p>1 to the, to the online application and agreement.  2 Q Is that online agreement signed by both  3 Saveology and Paramount?  4 A It's electronically signed.  5 Q And was that done on 10-12-10?  6 A I don't know the exact date that that was  7 done.  8 Q Approximately that day?  9 A I guess.  10 Q Okay. Did anyone from Saveology sign this  11 agreement, this Addendum 1?  12 A The one that you have in front of me, no.  13 Q Did someone from Saveology typically sign?  14 A Yes.  15 Q Is there a reason why no one signed this  16 one?  17 A I don't know.  18 Q Who typically signs these agreements for  19 Saveology?  20 A At this time, it would have been Reid  21 Shapiro.  22 Q Is this Saveology's standard contract for  23 its affiliates?  24 A It's a standard addendum for an ADT  25 affiliate.</p>	<p style="text-align: right;">Page 36</p> <p>1 online application?  2 A I don't know.  3 Q Okay. Aside from that online application  4 and this addendum, were there any other written  5 agreements between Saveology and Paramount?  6 A Not that I'm aware of.  7 Q Okay. If you can turn to Exhibit B to  8 this document.  9 A Okay.  10 Q It says Saveology ADT affiliates. And  11 then it has a couple of pages. Who drafted these  12 pages in Exhibit B?  13 A I did.  14 Q Was it reviewed by anyone?  15 A The paralegal.  16 Q And how did you decide what to put in this  17 Exhibit B?  18 A I took exactly what was in the agreement  19 with ADT and Saveology and just changed it to not  20 read ADT and Saveology, but ADT and the partner  21 company.  22 Q So are you referring to what was in  23 Exhibit 1 that we marked today?  24 A Yes.  25 Q Okay.</p>
<p style="text-align: right;">Page 35</p> <p>1 Q Did Paramount request any modification or  2 amendment to this addendum?  3 A Not that I can recall.  4 Q To your knowledge, was there ever an  5 amendment done to this addendum?  6 A Another one to this one?  7 Q Correct.  8 A I don't -- not that I can remember.  9 Q Okay. So is this the only agreement  10 between Saveology and Paramount, and you had  11 mentioned an online one?  12 A Right, that's the standard terms and  13 conditions to work with Saveology.  14 Q Okay. Do you know if that online  15 application, a copy of that has been produced in  16 this action?  17 A I don't know.  18 Q Earlier, ADT sent a Request for Production  19 of Documents to Saveology. Have you seen that?  20 A There's be many, I'm not sure exactly  21 which one you're referring to.  22 Q Were you at all involved in collecting  23 documents to be produced for this lawsuit?  24 A I'm sure I've provided a few.  25 Q Do you know if you provided a copy of the</p>	<p style="text-align: right;">Page 37</p> <p>1 A Hold on, let me just make sure it's in  2 this one.  3 Q Why don't you take a look.  4 A Because there's multiple in here. This  5 hasn't been updated. Yeah, that's how -- yeah,  6 under no circumstances.  7 MR. PISANI: She's pointing to Page 14.  8 THE WITNESS: I apologize, Page 14, number  9 23A.  10 BY MS. GOLDBERG:  11 Q So you copied each from Page 14 of  12 Exhibit 1 and used that to create Exhibit B to the  13 Paramount addendum, is that correct?  14 A Correct.  15 Q Did ADT review your Exhibit B?  16 A I don't recall.  17 Q Did you send it to ADT?  18 A I don't remember.  19 Q And when was this given to Paramount?  20 A According to the front of the page,  21 10-12-10, on or about that date.  22 Q Well, that's the date --  23 A Twelfth day of November, I apologize.  24 Q So 12th day of November, 2010?  25 A Correct.</p>

10 (Pages 34 - 37)

<p style="text-align: right;">Page 38</p> <p>1 Q Is that when Paramount started actually 2 performing services? 3 A I don't know the exact date, but it 4 wouldn't have been on this exact -- I don't know if 5 it was the exact date. 6 Q Do you know approximately when Paramount 7 began performing services? 8 A Somewhere around that time. 9 Q So mid November, 2010? 10 A Yes. 11 Q Okay. Can you explain to me in your own 12 words, what was the purpose of this agreement? 13 MR. PISANI: I'm going to object to the 14 extent that the exhibit, agreement, Exhibit 15 Number 3, the agreement, speaks for itself. 16 MS. GOLDBERG: I understand. 17 BY MS. GOLDBERG: 18 Q What was your understanding of what 19 Paramount was supposed to be doing? 20 A What were they supposed to be doing? 21 Q Why did Saveology contract with them? 22 A To provide additional home security leads. 23 Q To provide leads? 24 A Yes. Home security, yes. 25 Q And how did Paramount do that?</p>	<p style="text-align: right;">Page 40</p> <p>1 when they got an opt in lead? 2 MR. PISANI: If you know. 3 THE WITNESS: Paramount was set up with 4 our account at PossibleNow, which is our DNC 5 scrub. That is also a third party for ADT's Do 6 Not Call List, scrubbed the leads against 7 Saveology, ADT and then as long as they were 8 not on there within the timeframe allotted, 9 they would call the customers -- call the 10 leads, I apologize. 11 BY MS. GOLDBERG: 12 Q And if a customer was interested in 13 purchasing a security system, what did Paramount do 14 next? 15 A We provided a script and they went through 16 the script to qualify the customer, to check the 17 credit score, to make sure they understood the 18 package, the price. 19 Q And if the customer agreed, yes, I want to 20 purchase, then what happened? 21 A Then the qualified lead would be entered 22 into the system. 23 Q By Paramount? 24 A Yes. And then sent over to Saveology to 25 my team.</p>
<p style="text-align: right;">Page 39</p> <p>1 A To my knowledge, they were receiving opt 2 in leads, opt in home security leads. 3 Q From where? 4 A From online. 5 Q When you say online, what specifically do 6 you mean? 7 A Which exact marketing technique they have, 8 I don't know, but it would have been submitted to 9 Kim Bands and ADT to be approved for the content. 10 Q Do you mean if they had a website? 11 A Yes. 12 Q I just want to make sure I understand. So 13 you're saying Paramount received opt in, opt ins to 14 its own website? 15 A To a website, yes. Whether they owned it 16 or not, I don't know, but to a website, yes. It 17 would have been qualified leads. 18 Q Did they have various websites? 19 A I would have to check. 20 Q And what did it do when it received some 21 opt in leads? 22 MR. PISANI: You're asking her what 23 Paramount did? 24 BY MS. GOLDBERG: 25 Q What is the process that Paramount did</p>	<p style="text-align: right;">Page 41</p> <p>1 Q At that point, was it considered a sale? 2 A Well, per the agreement, it's not 3 considered a sale, it's a qualified lead, qualified 4 referral. 5 Q And what did your team do with it then? 6 A We then scheduled, checked the, you know, 7 got the, did the due diligence of the e-port, we did 8 have a verification process, making sure the 9 customer was who they said they were on the phone, 10 just reaffirming that they were interested and then 11 we set up an installation date, confirmed the 12 installation date. 13 Q And then what did Saveology do with that 14 once it actually had an installation date? 15 A We sold it off to the dealers. 16 Q To the ADT? 17 A ADT authorized dealers, right. 18 Q How many different dealers did you sell 19 to? 20 A In the beginning, there was probably 15 to 21 20. 22 Q And were these called sales at this point 23 or installations or what were you selling to the 24 dealers, what's the term that you would use? 25 A Qualified customers.</p>

<p style="text-align: right;">Page 42</p> <p>1 Q Qualified customers, okay. Did you sell 2 qualified customers to Ever Safe? 3 A Yes. 4 Q Did you sell to Safe Streets? 5 A Yes. 6 Q Did you sell to Defender? 7 A Yes. 8 Q Are there any other ways that you can 9 think of that Paramount obtained leads? 10 A They were home security opt in leads. 11 That's all I can tell you. 12 Q But you said they obtained their leads 13 through websites, is that correct? 14 A Correct, from online. 15 Q Any other methods of obtaining leads? 16 A Online, I'm going to assume just online 17 home security leads. 18 Q Did you ever ask anyone at Paramount how 19 do they obtain their leads? 20 A Yes. 21 Q When was that? 22 A In the initial conversations. I've also 23 been to Paramount. 24 Q I'm sorry? 25 A I've also been to Paramount.</p>	<p style="text-align: right;">Page 44</p> <p>1 Q Can you explain to me what that is, a warm 2 transfer? 3 A A warm transfer would be if someone else 4 was selling let's say Leapfrog and at the end of the 5 call, they would say throughout the phone call if 6 you were qualified as a homeowner with certain 7 criteria and are you interested in a home security 8 offer and somebody would say yes and then they would 9 transfer the call. 10 Q So it was a company selling a different 11 product and then after they sold that product, they 12 would offer are you interested in a home security 13 too to the customer? 14 A Correct. 15 Q Okay. 16 A In laymen's terms. 17 Q Did you ever ask Paramount for the names 18 of the companies from which they purchased their 19 leads? 20 A No. 21 Q Under Addendum 1, was Paramount authorized 22 to make outbound calls? 23 A Provided under the scrubbing, provided 24 that they followed the guidelines for Exhibit B. 25 Q Okay. So there's nothing in this</p>
<p style="text-align: right;">Page 43</p> <p>1 Q Okay. The initial conversations, you mean 2 prior to signing the contract? 3 A Yes. 4 Q And what specifically did you say in that 5 conversation? 6 A I don't remember word-for-word, but they 7 had, they were an online or a lead company for 8 another provider that we worked with, so they had 9 experience in that world. 10 Q Do you remember who those other company 11 was that you worked with? 12 A That we worked with? 13 Q You're saying they were a lead provider 14 for another company that you worked with? 15 A Right, that they had worked with. It was 16 a similar, a mutual -- it was dish. They also 17 worked with dish. 18 Q Okay. How much experience did Paramount 19 have as a lead provider, do you know? 20 A I don't remember off the top of my head. 21 Q What else did they tell you about how they 22 got their leads? 23 A Through, through online for home security 24 opt in leads, also through warm transfers of 25 possibly an upsell from another product.</p>	<p style="text-align: right;">Page 45</p> <p>1 agreement that prohibited them from making outbound 2 calls? 3 A Correct, unsolicited outbound calls, yes, 4 but outbound calls to their database, to their opt 5 in leads. 6 Q Did you contact dish for a reference for 7 Paramount before contracting with Paramount? 8 A I did not. 9 Q I'm sorry? 10 A I did not. 11 Q Did somebody else at Saveology do that? 12 A I don't know. 13 Q Did you research Paramount's principals 14 prior to contracting with Paramount? 15 A Did I? No. 16 Q Did anyone else at Saveology? 17 A I don't know. 18 Q Did you check to see whether Paramount was 19 registered with the State of Florida as a 20 telemarketer? 21 A I did not. 22 Q Did anyone at Saveology? 23 A I don't know. 24 Q Did you check to see if there were any 25 complaints pending against Paramount?</p>

<p style="text-align: right;">Page 46</p> <p>1 A I did not.</p> <p>2 Q Did anyone at Saveology?</p> <p>3 A I don't know.</p> <p>4 Q Okay. Did you or anyone at Saveology</p> <p>5 check to see if there were legal judgments filed</p> <p>6 against Paramount or its officers or directors or</p> <p>7 members related to marketing?</p> <p>8 A I did not.</p> <p>9 Q Did anyone else at Saveology?</p> <p>10 A I don't know.</p> <p>11 Q Okay. Did you check to see whether</p> <p>12 Paramount was the subject of any government</p> <p>13 investigation?</p> <p>14 A I don't know.</p> <p>15 Q And you don't know if anyone else did?</p> <p>16 A I don't know.</p> <p>17 Q Okay. Aside from giving this addendum</p> <p>18 with Exhibit B, did Saveology do anything else to</p> <p>19 satisfy itself that Paramount was knowledgeable</p> <p>20 about the telemarketing laws?</p> <p>21 A There was training. We provided training</p> <p>22 to them.</p> <p>23 Q What did that training consist of?</p> <p>24 A There's a pamphlet. There's a whole</p> <p>25 training deck.</p>	<p style="text-align: right;">Page 48</p> <p>1 Paramount's offices?</p> <p>2 A I've been there a few times just to sit in</p> <p>3 the office, meet with Ryan, listen to calls.</p> <p>4 Q What was the purpose of those visits?</p> <p>5 A It's my QA to listen to calls, I can</p> <p>6 listen to random calls, listen to agents on the</p> <p>7 calls.</p> <p>8 Q How frequently would you do that?</p> <p>9 A I've done it a few times with Paramount, a</p> <p>10 few, I don't know, I don't know the exact number.</p> <p>11 Q Did you do it once a quarter, once a</p> <p>12 month, once a year?</p> <p>13 A Not once a month. I've been there a few</p> <p>14 times in our tenure of the relationship.</p> <p>15 Q A few times?</p> <p>16 A More than a handful of times.</p> <p>17 Q Less than ten?</p> <p>18 A Probably.</p> <p>19 Q Less than five?</p> <p>20 A I don't know. Somewhere around there.</p> <p>21 Q Okay. Did you ask if Paramount maintained</p> <p>22 its own internal Do Not Call List?</p> <p>23 A Yes.</p> <p>24 Q And did it?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 47</p> <p>1 Q It's a written document that you give to</p> <p>2 them?</p> <p>3 A Yes. And I trained many of their agents</p> <p>4 as well.</p> <p>5 Q By training, do you mean there was</p> <p>6 actually a course where you sat and explained things</p> <p>7 or you just handed them documents?</p> <p>8 A Oh, no, I was there, I was there in their</p> <p>9 offices training agents.</p> <p>10 Q When did you go to their offices?</p> <p>11 A Somewhere around this timeframe prior to</p> <p>12 them making calls.</p> <p>13 Q How many times did you do that?</p> <p>14 A I was there a few times.</p> <p>15 Q For the purposes of training?</p> <p>16 A Training and also just going to the</p> <p>17 offices, listening to some of the calls.</p> <p>18 Q And this was around the time of the</p> <p>19 contract?</p> <p>20 A Yes.</p> <p>21 Q Did you ever go to Paramount's offices at</p> <p>22 any other time aside from at the inception of the</p> <p>23 relationship?</p> <p>24 A Yes.</p> <p>25 Q Okay. When else would you have been at</p>	<p style="text-align: right;">Page 49</p> <p>1 Q Did you do anything to ascertain whether</p> <p>2 they accurately suppressed numbers against the</p> <p>3 federal and state Do Not Call Lists?</p> <p>4 A They had our access to that, so yes, I can</p> <p>5 see every time that phone numbers were scrubbed.</p> <p>6 Q Paramount had access to Saveology's?</p> <p>7 A To PossibleNow.</p> <p>8 Q Okay.</p> <p>9 A Uh-huh.</p> <p>10 Q So you would have evidence -- you would be</p> <p>11 able to see when they scrubbed?</p> <p>12 A Correct.</p> <p>13 Q How often did they scrub?</p> <p>14 A As required.</p> <p>15 Q Did Paramount have its own written do not</p> <p>16 call policy?</p> <p>17 A I do not know.</p> <p>18 Q Do you know if anyone, any consumers ever</p> <p>19 requested a copy of that policy?</p> <p>20 A From Paramount?</p> <p>21 Q Uh-huh.</p> <p>22 A I don't recall.</p> <p>23 Q Did you do anything to ascertain whether</p> <p>24 Paramount was knowledgeable about federal and state</p> <p>25 calling time restrictions?</p>



<p style="text-align: right;">Page 50</p> <p>1 A Yes, I actually provided the list from 2 PossibleNow. 3 Q Who did you provide it to? 4 A Ryan. 5 Q Aside from the training that you provided 6 you said when you were there a few times -- 7 A Yes, uh-huh. 8 Q -- did Paramount do any other training 9 for its telephone representatives? 10 A I don't know. I don't know. 11 Q Were you the person at Saveology who was 12 responsible for the Paramount relationship? 13 A Yes. 14 Q Did Paramount do telemarketing in 15 connection with products other than ADT products? 16 A I don't know. Within our company? 17 Q For Saveology. 18 A Not that, not that I'm aware of. 19 Q So Paramount's relationship with Saveology 20 was exclusively for ADT products and services? 21 A To my knowledge, yes. 22 Q Does Saveology have any written protocols 23 for supervising affiliates? 24 A Written protocols? Can you ask me the 25 question again?</p>	<p style="text-align: right;">Page 52</p> <p>1 Q Did you ask for a copy of Paramount's 2 telemarketing policies? 3 A I don't recall. 4 Q Did you obtain any kind of written proof 5 that Paramount had a telemarketing policy? 6 A I don't believe so. 7 Q Earlier, you said you would go and you 8 would observe, listen to calls and look for scrubs. 9 Did you do anything else to verify that Paramount 10 was complying with the telemarketing policies? 11 A I provided the calling time restrictions, 12 I provided the PossibleNow link to do that directly, 13 to the best of my ability. 14 Q Were there any regular checks with 15 Paramount, any periodic, you know, every three weeks 16 or five weeks, whatever, where you would check in on 17 their compliance? 18 A Well, I could randomly listen to all 19 calls. I would randomly ask for calls just so I 20 can -- 21 Q How frequently would you do that? 22 A It's random. I don't -- I don't recall 23 how often. 24 Q And what would you do if you noticed 25 something that wasn't correct?</p>
<p style="text-align: right;">Page 51</p> <p>1 Q Does Saveology have any kind of written 2 document about how to supervise affiliates? 3 A I don't know. 4 Q Have you ever seen such a document? 5 A Not that I'm aware of. 6 Q Were there any either formal or informal 7 procedures for overseeing affiliates? 8 A That I did myself? 9 Q Sure. 10 A Yes. By going to Paramount, listening to 11 their calls and things like that. Making sure they 12 were following the script. 13 Q What I'm trying to ascertain, does 14 Saveology have a formal process by which someone in 15 your position say would regularly go and monitor 16 what an affiliate's doing or did you just decide on 17 your own this would be the thing and let me go check 18 it out? 19 A I don't know if there's written formal 20 documents, but that's what I did, yes. 21 Q Aside from what you've already told me, 22 did you do anything else to monitor Paramount's 23 activities? 24 A No, I can see the scripts. Other than 25 what I told you, no, I don't believe so.</p>	<p style="text-align: right;">Page 53</p> <p>1 A If I noticed that something was incorrect 2 based off of just the call that I listened to or the 3 way an order was placed, I would communicate with 4 Ryan and his team. 5 Q And what did you do to ascertain whether 6 that was corrected? 7 A To what my knowledge is of how to process 8 orders and how to speak to customers and things like 9 that, I would correct them with, with a verbal, we 10 would have a conversation about it. 11 Q How often did you communicate with Ryan? 12 A Often. Especially in the beginning of any 13 relationship, just to be able to provide all the 14 do's and don'ts and things like that. 15 Q So daily, weekly? 16 A Could have been daily at times, could have 17 been weekly at times. 18 Q After the first say two months of the 19 relationship, how frequently would you communicate 20 with Ryan? 21 A I don't recall. I can't give you an exact 22 thing. 23 Q Was Ryan Neill your main contact person at 24 Paramount? 25 A Yes.</p>



<p style="text-align: right;">Page 54</p> <p>1 Q Was there anyone else at Paramount that 2 you would speak with?</p> <p>3 A There were the technical guys that would 4 do the PossibleNow scrubs and the order processing 5 manager.</p> <p>6 Q Did you do anything to check to see if 7 they used prerecorded messages when calling 8 consumers?</p> <p>9 A Just listening to the random phone calls, 10 I can hear the beginning of the conversation, hi, 11 may I speak to so-and-so. And it was very clear no 12 prerecorded messages whatsoever.</p> <p>13 Q Could you go back to the addendum and take 14 a look at Page 4? Towards the middle of the page, 15 it says, Upon Saveology's request, affiliate will 16 promptly provide any outbound call list or dialer 17 records of calls placed by affiliate within the 18 preceding 24 months.</p> <p>19 A Okay.</p> <p>20 Q Did Saveology ever request an outbound 21 call list or dialer records from Paramount?</p> <p>22 A I don't, I don't remember.</p> <p>23 Q Do you recall ever requesting any 24 documentation of their calls?</p> <p>25 A Any documentation of their calls? Could</p>	<p style="text-align: right;">Page 56</p> <p>1 MR. PISANI: Same objection. You can 2 answer if you know.</p> <p>3 THE WITNESS: I don't know.</p> <p>4 BY MS. GOLDBERG:</p> <p>5 Q Were you responsible for supervising any 6 other affiliates?</p> <p>7 A For?</p> <p>8 Q Any other Saveology affiliates.</p> <p>9 A For home security, yes.</p> <p>10 Q Who were those other affiliates?</p> <p>11 A Savilo. Do you want the name of all of 12 them?</p> <p>13 Q Sure.</p> <p>14 A I couldn't remember all the names.</p> <p>15 Q Let's start with approximately how many 16 other affiliates, home security affiliates did 17 Saveology have?</p> <p>18 A Ten.</p> <p>19 Q Do you remember the names of any others 20 besides Paramount and Savilo?</p> <p>21 A Not off the top of my head. I really 22 focused on Paramount for this deposition.</p> <p>23 Q Among Saveology's home security 24 affiliates, which one generated the most sales?</p> <p>25 A The most qualified leads?</p>
<p style="text-align: right;">Page 55</p> <p>1 you --</p> <p>2 Q Any kind of call lists or records of calls 3 that they had placed.</p> <p>4 A Sure, when I would ask for random, random 5 phone calls and I can also see that the numbers that 6 were scrubbed through PossibleNow.</p> <p>7 Q So you would randomly check, but did you 8 ever ask them to produce to you a list of calls they 9 had made in the last month, let's say?</p> <p>10 A I don't recall. I requested a lot of 11 things.</p> <p>12 Q Did Saveology ever request from its other 13 affiliates that they submit dialer records to 14 Saveology?</p> <p>15 A I can't speak to that, Saveology in that 16 manner. I don't know.</p> <p>17 MR. PISANI: I'm going to object that it's 18 outside the scope of this deposition.</p> <p>19 MS. GOLDBERG: I'm trying to understand 20 what Saveology's general practice was vis-a-vis 21 its affiliates.</p> <p>22 BY MS. GOLDBERG:</p> <p>23 Q Would it be common for Saveology to ask 24 for their outbound call lists or their dialer 25 records?</p>	<p style="text-align: right;">Page 57</p> <p>1 Q The most qualified leads.</p> <p>2 A Throughout the tenure?</p> <p>3 Q Let's say in 2011.</p> <p>4 A Oh, I don't know off the top of my head. 5 I don't know.</p> <p>6 Q And you were responsible for all ten of 7 those affiliate relationships?</p> <p>8 A As it pertained to home security.</p> <p>9 Q Right. Was there anyone else aside from 10 you who had oversight responsibility for those 11 affiliate relationships?</p> <p>12 A Who had oversight responsibility? That 13 also knew the affiliates?</p> <p>14 Q That knew the affiliates and had 15 responsibility for the relationships.</p> <p>16 A Yes.</p> <p>17 Q And who is that?</p> <p>18 A Reid Shapiro.</p> <p>19 Q Anyone else?</p> <p>20 A Not that I can remember.</p> <p>21 Q Okay. Did Saveology ever do an audit of 22 Paramount?</p> <p>23 A An audit? Besides me going out there and 24 auditing the daily activity of what was going on?</p> <p>25 Q Well, I know you said you went out there</p>

15 (Pages 54 - 57)

<p style="text-align: right;">Page 58</p> <p>1 and occasionally looked at the daily activity, but  2 was there ever any formal audit?  3 MR. PISANI: I'm going to object to the  4 term audit. I don't think she understands what  5 you mean based on her last response.  6 BY MS. GOLDBERG:  7 Q Do you understand what I'm saying?  8 A No.  9 Q Aside from you going out and randomly  10 checking, was there any other method Saveology used  11 to check up on Paramount's activities?  12 A To check up?  13 Q To monitor, to oversee Paramount's  14 activities. Aside from your random checking in.  15 A No.  16 Q Did Saveology ask Paramount to produce any  17 documents to it concerning its calls or the source  18 of its leads?  19 A Just the websites and the content of how  20 they obtained their leads was provided and approved  21 by the marketing division.  22 Q That was all at the beginning of the  23 relationship, correct?  24 A Correct, and any type of, any type of  25 change that would have occurred, it would have had</p>	<p style="text-align: right;">Page 60</p> <p>1 type of marketing tactics they had that was already  2 approved by ADT.  3 Q The websites you're saying that were  4 approved?  5 A Correct.  6 Q Okay.  7 MS. GOLDBERG: Let's mark this.  8 (Plaintiff's Exhibit 4 was marked for  9 identification.)  10 MS. GOLDBERG: Take a moment to read it.  11 When you're done, just look up.  12 BY MS. GOLDBERG:  13 Q Was this e-mail sent by you?  14 A Yes.  15 Q It says it was sent to Ryan Neill and  16 Chris. Who is Chris?  17 A One of Ryan's co-workers.  18 Q So someone who worked at Paramount?  19 A I believe so. I don't see the e-mail  20 address, though.  21 Q And who is Robin Feinglas?  22 A Our paralegal at the time.  23 Q At Saveology?  24 A Yes.  25 Q Okay. In the second paragraph, you say,</p>
<p style="text-align: right;">Page 59</p> <p>1 to have been approved first by ADT's marketing.  2 (Mr. McNew entered the proceedings.)  3 BY MS. GOLDBERG:  4 Q Aside from your initial conversation with  5 Ryan, did you get any other information as to the  6 source of Paramount's leads?  7 A No. I'm not sure I understand. What do  8 you mean?  9 Q You said in the initial conversation, you  10 asked where they got leads, correct?  11 A Correct.  12 Q Did you do anything else to verify where  13 they were getting their leads from?  14 A No.  15 Q Aside from what you've already told me,  16 did Saveology take any other measures to ensure that  17 Paramount was in compliance with the telemarketing  18 laws?  19 A Besides -- not, not to my knowledge.  20 Q Okay. Did you do anything to investigate  21 their leads or the source of their leads?  22 A Other than the documentation I was  23 provided, no.  24 Q What documentation were you provided with?  25 A Well, we already spoke about it, whatever</p>	<p style="text-align: right;">Page 61</p> <p>1 Are your call centers making outbound calls, if so,  2 we must scrub those numbers prior to calling the  3 consumers even though they opt in. I was under the  4 impression that all of your calls were inbound  5 calls. What gave you that impression?  6 A In the beginning of our relationship, it  7 would have been there's a phone number on the  8 website as well that you can call in, so sometimes,  9 you have to make outbound calls to call them back.  10 So once that came up, then they would have to scrub.  11 Q So you didn't know at this point in time  12 whether Paramount was just taking inbound calls or  13 whether it was also making outbound calls?  14 A I don't know, that's what that -- that's  15 what they would say.  16 Q That you weren't aware?  17 A Correct.  18 Q Okay. And this is dated 4-8-2011, so it's  19 been approximately four months, is that correct,  20 that Paramount and Saveology have been working  21 together?  22 A November, yes.  23 Q Okay. Isn't it something you would want  24 to know whether they were just receiving inbound  25 calls or whether they were also making outbound</p>

<p style="text-align: right;">Page 62</p> <p>1 calls?</p> <p>2 A Correct.</p> <p>3 Q A provider that is making outbound calls</p> <p>4 has responsibilities to scrub as you mentioned?</p> <p>5 A Correct.</p> <p>6 Q So how come Saveology was not aware</p> <p>7 whether Paramount was doing inbound or outbound?</p> <p>8 MR. PISANI: Objection. That</p> <p>9 mischaracterizes her testimony.</p> <p>10 BY MS. GOLDBERG:</p> <p>11 Q Why is it you're asking if your call</p> <p>12 centers are making outbound calls? Isn't that</p> <p>13 something that you would have known?</p> <p>14 A There's guidelines that they have to agree</p> <p>15 to in the addendum. So if there's any outbound</p> <p>16 calls, they would have to abide by this.</p> <p>17 Q But you didn't know as of the date of this</p> <p>18 e-mail, correct, whether they were making outbound</p> <p>19 calls?</p> <p>20 MR. PISANI: Objection. That</p> <p>21 mischaracterizes her testimony.</p> <p>22 BY MS. GOLDBERG:</p> <p>23 Q I'm asking you on the date you sent this</p> <p>24 e-mail, you're asking these questions, did you know</p> <p>25 whether Paramount was making outbound calls or not?</p>	<p style="text-align: right;">Page 64</p> <p>1 A Prior to -- I don't know. I don't know</p> <p>2 what date.</p> <p>3 Q When was the first time you checked to see</p> <p>4 that Paramount was scrubbing its calls?</p> <p>5 A What was the first date? I don't know. I</p> <p>6 would have to go look. I don't know.</p> <p>7 Q How regularly would you check to see that</p> <p>8 they were scrubbing calls?</p> <p>9 A What do you mean how regularly? I would</p> <p>10 get a notification from PossibleNow once they</p> <p>11 scrubbed them.</p> <p>12 Q Aside from what you received from</p> <p>13 PossibleNow, where would you look to see whether</p> <p>14 Paramount scrubbed its calls?</p> <p>15 A Where --</p> <p>16 Q If you wanted to ascertain whether</p> <p>17 Paramount scrubbed its calls or not, how would you</p> <p>18 do that?</p> <p>19 A How would I -- I don't know. I don't --</p> <p>20 I'm not sure.</p> <p>21 MR. PISANI: Do you understand the</p> <p>22 question?</p> <p>23 THE WITNESS: No.</p> <p>24 BY MS. GOLDBERG:</p> <p>25 Q Earlier, you had said you'd have to look,</p>
<p style="text-align: right;">Page 63</p> <p>1 A Well, according to this e-mail, it's</p> <p>2 asking them the question.</p> <p>3 Q So you didn't know?</p> <p>4 MR. PISANI: Objection.</p> <p>5 BY MS. GOLDBERG:</p> <p>6 Q I mean, you're asking the question I</p> <p>7 assume because you're not knowing the answer?</p> <p>8 MR. PISANI: You don't need to assume.</p> <p>9 I'm going to instruct her not to answer if</p> <p>10 she's asked to assume something.</p> <p>11 BY MS. GOLDBERG:</p> <p>12 Q I'm not asking her to assume, I'm asking</p> <p>13 her whether Paramount was making outbound calls.</p> <p>14 A Did I know at that particular moment? I</p> <p>15 don't know.</p> <p>16 Q What was Paramount's response to this</p> <p>17 e-mail?</p> <p>18 A I don't know. It's not here. I can't</p> <p>19 remember from 2011.</p> <p>20 Q No, I understand. Do you recall if they</p> <p>21 sent you a response to this?</p> <p>22 A I don't know.</p> <p>23 Q Prior to this date, had you ever checked</p> <p>24 to see if there were any records of Paramount</p> <p>25 scrubbing calls?</p>	<p style="text-align: right;">Page 65</p> <p>1 so what would you look at?</p> <p>2 A I'd have to look at to know what part of</p> <p>3 the question? There's three questions here. Which</p> <p>4 one are we -- you are --</p> <p>5 MS. GOLDBERG: Sorry, could you read back</p> <p>6 a couple questions?</p> <p>7 THE COURT REPORTER: Question, "Aside from</p> <p>8 what you received from PossibleNow, where would</p> <p>9 you look to see whether Paramount scrubbed its</p> <p>10 calls?"</p> <p>11 BY MS. GOLDBERG:</p> <p>12 Q So where would you look?</p> <p>13 A In PossibleNow.</p> <p>14 Q And that would tell you the date on which</p> <p>15 they scrubbed?</p> <p>16 A If, if nothing has changed, yes. If</p> <p>17 nothing has changed within PossibleNow. We haven't</p> <p>18 been doing any of that type of work with PossibleNow</p> <p>19 since we haven't been doing any outbound calls with</p> <p>20 them. I would have to look at PossibleNow's system.</p> <p>21 Q And would the PossibleNow system tell you</p> <p>22 the dates on which Paramount scrubbed its calls?</p> <p>23 A Yes.</p> <p>24 Q Okay. So you would -- and you would be</p> <p>25 able to look back for several months and see how</p>

<p style="text-align: right;">Page 66</p> <p>1 frequently they scrubbed?</p> <p>2 A I don't know. I would have to conduct</p> <p>3 someone at PossibleNow to see if they can pull up</p> <p>4 that stuff.</p> <p>5 Q But it's possible to get a record of that</p> <p>6 if you wanted to?</p> <p>7 MR. PISANI: I think she said to contact</p> <p>8 PossibleNow.</p> <p>9 BY MS. GOLDBERG:</p> <p>10 Q No, I understand that you would have to</p> <p>11 contact -- does Saveology itself have such records?</p> <p>12 A Of?</p> <p>13 MR. PISANI: Wait.</p> <p>14 BY MS. GOLDBERG:</p> <p>15 Q Paramount scrubbing?</p> <p>16 A Such records as?</p> <p>17 Q Does Saveology have a record of when</p> <p>18 Paramount scrubbed its calls?</p> <p>19 A Did we keep a daily record? No.</p> <p>20 Q So those are not records that you would</p> <p>21 maintain in the regular course of business?</p> <p>22 A The date of a scrub? Not to my knowledge.</p> <p>23 Q Why not? Wouldn't you want to know that</p> <p>24 your affiliates are scrubbing as required by law?</p> <p>25 A Well, yeah, but PossibleNow is a third</p>	<p style="text-align: right;">Page 68</p> <p>1 Q And would you have to go to PossibleNow or</p> <p>2 would you have that record yourself?</p> <p>3 A I would go into PossibleNow's system. I</p> <p>4 would get a notification once they scrub.</p> <p>5 Q Okay.</p> <p>6 A From PossibleNow.</p> <p>7 Q Did you receive notifications from</p> <p>8 PossibleNow?</p> <p>9 A Yes.</p> <p>10 Q Every time they scrubbed?</p> <p>11 A Yes.</p> <p>12 Q And earlier, I asked you how frequently</p> <p>13 they scrubbed and you said as required by law.</p> <p>14 A As required, uh-huh.</p> <p>15 Q But this e-mail suggests that they hadn't</p> <p>16 been scrubbing prior to this date.</p> <p>17 MR. PISANI: I'm going to object to what</p> <p>18 the e-mail states. The e-mail says what it</p> <p>19 says.</p> <p>20 BY MS. GOLDBERG:</p> <p>21 Q Did you ever get evidence that Paramount</p> <p>22 scrubbed prior to 4/8/2011?</p> <p>23 A Oh, I don't know. I wouldn't know.</p> <p>24 Q Did you produce any documents showing that</p> <p>25 Paramount scrubbed as required by law?</p>
<p style="text-align: right;">Page 67</p> <p>1 party DNC that is also contracted by ADT, so they</p> <p>2 have record of all of that as well.</p> <p>3 Q And does Saveology have independent</p> <p>4 records of that?</p> <p>5 A I don't know.</p> <p>6 MR. PISANI: Aside from PossibleNow?</p> <p>7 MS. GOLDBERG: Aside from PossibleNow.</p> <p>8 I'm just trying to ascertain if Saveology has a</p> <p>9 record of that.</p> <p>10 MR. PISANI: Of PossibleNow's records? I</p> <p>11 think that's where the disconnect is. She's</p> <p>12 talking about PossibleNow's third party</p> <p>13 software.</p> <p>14 BY MS. GOLDBERG:</p> <p>15 Q But Saveology doesn't have your own</p> <p>16 records of that?</p> <p>17 A Records of the days of the scrubs that</p> <p>18 Paramount would do?</p> <p>19 Q Yes.</p> <p>20 A Not that I can recall.</p> <p>21 Q Aside from the date of the scrub, would</p> <p>22 Saveology be able to figure out whether Paramount</p> <p>23 scrubbed or not, the fact that it scrubbed, even if</p> <p>24 it didn't know the date?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 69</p> <p>1 MR. PISANI: Did she produce?</p> <p>2 MS. GOLDBERG: Did Saveology produce.</p> <p>3 THE WITNESS: To whom?</p> <p>4 MS. GOLDBERG: In this litigation.</p> <p>5 THE WITNESS: Oh. I don't know. I don't</p> <p>6 know what's produced.</p> <p>7 MR. PISANI: Well, there's been around</p> <p>8 20,000 pages of documents that have been</p> <p>9 produced.</p> <p>10 BY MS. GOLDBERG:</p> <p>11 Q To your knowledge, has that been produced?</p> <p>12 MR. PISANI: We can go off the record if</p> <p>13 you want to talk about production responses.</p> <p>14 BY MS. GOLDBERG:</p> <p>15 Q I wanted to follow up on something you had</p> <p>16 said earlier. You had testified I believe that for</p> <p>17 its websites, Paramount got approval from ADT for</p> <p>18 the content of its website?</p> <p>19 A For any content, yes.</p> <p>20 Q Who submitted that website content for ADT</p> <p>21 approval?</p> <p>22 A I would have or one of the people who work</p> <p>23 for me.</p> <p>24 Q So Paramount never sent anything directly</p> <p>25 to ADT, is that correct?</p>

<p style="text-align: right;">Page 70</p> <p>1 A No.</p> <p>2 Q Everything went through Saveology?</p> <p>3 A Correct.</p> <p>4 Q And when ADT granted approval, did they</p> <p>5 notify Saveology of the approval?</p> <p>6 A Yes.</p> <p>7 Q And you notified Paramount?</p> <p>8 A Correct.</p> <p>9 Q ADT never directly sent approval to</p> <p>10 Paramount, is that correct?</p> <p>11 A No.</p> <p>12 Q Okay.</p> <p>13 MS. GOLDBERG: Let's mark another exhibit.</p> <p>14 This is actually two pages, two separate</p> <p>15 e-mails, but we'll mark them together, please.</p> <p>16 She will mark a copy for you in a second.</p> <p>17 (Plaintiff's Exhibit 5 was marked for</p> <p>18 identification.)</p> <p>19 BY MS. GOLDBERG:</p> <p>20 Q Okay. Earlier, you mentioned the</p> <p>21 requirement to submit all do not call requests, is</p> <p>22 that correct?</p> <p>23 A To submit the customers that ask to be put</p> <p>24 on the DNC, correct.</p> <p>25 Q Thank you. So here you say, I'm assuming</p>	<p style="text-align: right;">Page 72</p> <p>1 them and ask why?</p> <p>2 A If they were doing outbounds, yes, or even</p> <p>3 for the inbounds, yes.</p> <p>4 Q Isn't that something you're required to</p> <p>5 follow up on to make sure you're submitting the DNC</p> <p>6 requests?</p> <p>7 A Correct.</p> <p>8 Q Did Ryan ever send you the opt out report</p> <p>9 that you asked for in this e-mail?</p> <p>10 A I don't, I don't see a response to this.</p> <p>11 Q Look at the second page.</p> <p>12 A Which one is 1 and which one is 2?</p> <p>13 MR. PISANI: This is the second page.</p> <p>14 MS. GOLDBERG: The one that doesn't have</p> <p>15 the sticker.</p> <p>16 THE WITNESS: Got you.</p> <p>17 BY MS. GOLDBERG:</p> <p>18 Q Here you said, That was the last report we</p> <p>19 received. We do not have anything beyond 3-11.</p> <p>20 That is what we need as that was a week ago.</p> <p>21 A Okay.</p> <p>22 Q Now, this second e-mail is about an</p> <p>23 hour-and-a-half after the first e-mail. And it</p> <p>24 looks like from the bottom of the page, that Rudy</p> <p>25 sent you a list and you're responding that that's</p>
<p style="text-align: right;">Page 71</p> <p>1 you have daily DNC requests, this is very important.</p> <p>2 In your experience, have you found that there are</p> <p>3 DNC requests every single day?</p> <p>4 A From our, from our internal agents, yes.</p> <p>5 Q Was this a matter of concern or a red flag</p> <p>6 for you that you hadn't received an opt out report</p> <p>7 for Paramount in a week?</p> <p>8 A Was it a concern? Yes, if there was opt</p> <p>9 out to be put on, yes.</p> <p>10 Q I assume you were concerned, that's why</p> <p>11 you were writing that e-mail, right?</p> <p>12 MR. PISANI: Objection. E-mail speaks for</p> <p>13 itself.</p> <p>14 BY MS. GOLDBERG:</p> <p>15 Q I'm asking you why did you write this</p> <p>16 e-mail? I'm assuming it's because you were</p> <p>17 concerned that you hadn't seen any opt outs for a</p> <p>18 week.</p> <p>19 MR. PISANI: Same objection.</p> <p>20 MS. GOLDBERG: You can answer.</p> <p>21 THE WITNESS: I think the e-mail as you</p> <p>22 said speaks for itself.</p> <p>23 BY MS. GOLDBERG:</p> <p>24 Q If you had another affiliate that had not</p> <p>25 submitted DNCs for seven days, would you contact</p>	<p style="text-align: right;">Page 73</p> <p>1 not the correct list. Did you ever receive a</p> <p>2 correct list?</p> <p>3 MR. PISANI: I'm going to --</p> <p>4 THE WITNESS: I'm saying this is not</p> <p>5 correct.</p> <p>6 BY MS. GOLDBERG:</p> <p>7 Q You're saying these are all the DNCs</p> <p>8 through 3-11. We have through 3-11. That was the</p> <p>9 last report we received. We do not have anything</p> <p>10 beyond 3-11. That's what you were looking for in</p> <p>11 your initial e-mail.</p> <p>12 A Okay.</p> <p>13 Q So my question to you is did they ever</p> <p>14 respond and provide the DNC list after 3-11?</p> <p>15 A I can't answer that, I don't know where</p> <p>16 the response is.</p> <p>17 MR. PISANI: Do you have any other e-mails</p> <p>18 after this one?</p> <p>19 MS. GOLDBERG: I don't.</p> <p>20 BY MS. GOLDBERG:</p> <p>21 Q To the best of your recollection, did Ryan</p> <p>22 or Rudy respond with the DNC list you had requested.</p> <p>23 A If I had asked for it, they would have</p> <p>24 given it to me.</p> <p>25 Q But they hadn't given it to you until you</p>



<p style="text-align: right;">Page 74</p> <p>1 asked for it?</p> <p>2 A That's what this e-mail is saying, from</p> <p>3 3-11 to whatever the date is.</p> <p>4 Q Is there a penalty for not timely posting</p> <p>5 DNC numbers to the DNC list?</p> <p>6 A Penalty to who?</p> <p>7 Q To Saveology.</p> <p>8 MR. PISANI: Do you understand the</p> <p>9 question? A penalty to whom?</p> <p>10 BY MS. GOLDBERG:</p> <p>11 Q What are the consequences of not timely</p> <p>12 posting a customer's number to the DNC list?</p> <p>13 A I would have to look and see what the</p> <p>14 exact consequences are, I don't know off the top of</p> <p>15 my head.</p> <p>16 Q Is that a violation of law to not timely</p> <p>17 post a customer's number?</p> <p>18 MR. PISANI: Objection. She's not here to</p> <p>19 answer what the requirements of law are.</p> <p>20 MR. MCNEW: Can we go off the record for a</p> <p>21 second?</p> <p>22 MS. GOLDBERG: We're going to go off for a</p> <p>23 minute.</p> <p>24 (Off-the-record discussion.)</p> <p>25</p>	<p style="text-align: right;">Page 76</p> <p>1 Neill. Does that refresh your recollection as to</p> <p>2 whom this e-mail would be directed?</p> <p>3 A I don't remember.</p> <p>4 Q Well, it was also sent to Ryan Neill,</p> <p>5 correct?</p> <p>6 A Okay, yes.</p> <p>7 Q And you have attached instructions on the</p> <p>8 ADT DNC scrubbing process along with marketing</p> <p>9 guidelines on which to be scrubbed. Was this the</p> <p>10 first time you sent such instructions to Paramount?</p> <p>11 A Was it the first time? I don't know. I</p> <p>12 don't have all the e-mails. I have no idea, to be</p> <p>13 honest with you.</p> <p>14 Q Do you recall sending scrubbing</p> <p>15 instructions to Paramount at any date prior to</p> <p>16 4-13-2011?</p> <p>17 A I don't know. I don't recall. This is</p> <p>18 years ago, I don't know.</p> <p>19 Q I understand, but you're testifying today</p> <p>20 as the corporate representative for Saveology.</p> <p>21 A Okay.</p> <p>22 Q So I just want to understand, did</p> <p>23 Saveology at any previous point send scrubbing</p> <p>24 instructions and guidelines to Paramount?</p> <p>25 MR. PISANI: Objection, asked and</p>
<p style="text-align: right;">Page 75</p> <p>1 BY MS. GOLDBERG:</p> <p>2 Q Earlier, you testified that you had</p> <p>3 responsibility for the Paramount relationship,</p> <p>4 correct?</p> <p>5 A Correct.</p> <p>6 Q And you also testified that you had</p> <p>7 responsibility for compliance, correct?</p> <p>8 A Correct.</p> <p>9 Q So would it be a concern for you that</p> <p>10 there was a potential violation if a company had not</p> <p>11 submitted any DNCs for a week, would that be a</p> <p>12 concern for you?</p> <p>13 A Yes.</p> <p>14 MS. GOLDBERG: Let's take a look at</p> <p>15 another e-mail.</p> <p>16 (Plaintiff's Exhibit 6 was marked for</p> <p>17 identification.)</p> <p>18 BY MS. GOLDBERG:</p> <p>19 Q This was an e-mail sent by you to Bruce</p> <p>20 Cohen. Was Bruce Cohen working for Paramount?</p> <p>21 A I don't know. I don't recall.</p> <p>22 Q Do you know who he is?</p> <p>23 A This is from 2011, I don't remember the</p> <p>24 name, sorry.</p> <p>25 Q I see the e-mail is also cc'd to Ryan</p>	<p style="text-align: right;">Page 77</p> <p>1 answered.</p> <p>2 THE WITNESS: I thought I answered that.</p> <p>3 I don't know if there's prior e-mails to this.</p> <p>4 I don't know off the top of my head.</p> <p>5 BY MS. GOLDBERG:</p> <p>6 Q Okay. Who would know the answer to that?</p> <p>7 A I would assume the e-mail system. I'm not</p> <p>8 trying to be facetious, again, this is dated</p> <p>9 4-13-2011, I don't know if there were prior e-mails.</p> <p>10 Q Well, I ask because I have looked through</p> <p>11 all of the e-mails that were produced and I didn't</p> <p>12 see anything indicating that, that's why I'm asking</p> <p>13 you do you have any knowledge whether Saveology</p> <p>14 produced scrubbing instructions and guidelines to</p> <p>15 Paramount prior to this date?</p> <p>16 A I don't know.</p> <p>17 Q Okay.</p> <p>18 MS. GOLDBERG: Let's mark another e-mail.</p> <p>19 (Plaintiff's Exhibit 7 was marked for</p> <p>20 identification.)</p> <p>21 THE WITNESS: Okay.</p> <p>22 BY MS. GOLDBERG:</p> <p>23 Q You asked Ryan, Are you working with a</p> <p>24 lead provider called American Protection Services?</p> <p>25 How come you didn't know who Ryan was working with?</p>

20 (Pages 74 - 77)



<p style="text-align: right;">Page 78</p> <p>1 MR. PISANI: Objection to the form of the</p> <p>2 question.</p> <p>3 MS. GOLDBERG: You can answer.</p> <p>4 THE WITNESS: Did --</p> <p>5 BY MS. GOLDBERG:</p> <p>6 Q Why is it you didn't know which lead</p> <p>7 providers Paramount was working with?</p> <p>8 MR. PISANI: Objection. Assumes facts not</p> <p>9 in evidence.</p> <p>10 MS. GOLDBERG: You can answer.</p> <p>11 THE WITNESS: I know what he told me.</p> <p>12 BY MS. GOLDBERG:</p> <p>13 Q So he never told you he was working with</p> <p>14 American Protection Services, is that what you're</p> <p>15 saying?</p> <p>16 A Not to my knowledge, correct.</p> <p>17 Q Did you ever ask which lead providers</p> <p>18 Paramount was working with?</p> <p>19 A It was very clear there was absolutely no</p> <p>20 prerecorded messages whatsoever, so I can only take</p> <p>21 what he provided and the auditing he gave me and he</p> <p>22 had the guidelines of what he could or could not do.</p> <p>23 He was a pretty reputable guy, I would assume.</p> <p>24 Q You would assume. Did Saveology ever</p> <p>25 request a list of lead providers that Paramount</p>	<p style="text-align: right;">Page 80</p> <p>1 reference.</p> <p>2 Q If it did give you a list of companies,</p> <p>3 you would have known the answer to this question</p> <p>4 then, are you working with a lead provider called</p> <p>5 American Protection Services, right?</p> <p>6 A Correct.</p> <p>7 Q So the fact that you're asking the</p> <p>8 question indicates that Paramount had never told you</p> <p>9 that it was working with American Protection</p> <p>10 Services, correct?</p> <p>11 A If they were, correct.</p> <p>12 Q Sorry, I didn't understand your answer.</p> <p>13 A Correct. I was not aware of American --</p> <p>14 that's what this e-mail says, are you working with</p> <p>15 American Protection Services.</p> <p>16 Q Okay. Did you do anything to investigate</p> <p>17 the relationship between Paramount and American</p> <p>18 Protection Services?</p> <p>19 A I don't recall. I don't know what Ryan's</p> <p>20 response is. I don't have a response here.</p> <p>21 Q Did Saveology do anything to investigate</p> <p>22 who is American Protection Services?</p> <p>23 A I don't know what, what is after this</p> <p>24 e-mail. I don't know -- I don't see in front of me</p> <p>25 what is after this e-mail.</p>
<p style="text-align: right;">Page 79</p> <p>1 worked with?</p> <p>2 A I would assume so.</p> <p>3 Q Is that Saveology's usual practice?</p> <p>4 A Yes.</p> <p>5 Q That it would ask its affiliates to</p> <p>6 identify their lead providers?</p> <p>7 A The lead source. There's a lot of secret</p> <p>8 sauce.</p> <p>9 Q Explain what their lead source is.</p> <p>10 A Is it an online opt in, if it's granted to</p> <p>11 ADT, it has to be approved. As to exactly where</p> <p>12 they're driving what, what websites they're on to</p> <p>13 drive that traffic, that's their proprietary</p> <p>14 information.</p> <p>15 Q So you don't know which companies they</p> <p>16 work for, they work with to obtain leads, is that</p> <p>17 what you're saying?</p> <p>18 A I know what they tell me.</p> <p>19 Q Did Paramount ever tell you what companies</p> <p>20 it uses to obtain leads?</p> <p>21 A Yes.</p> <p>22 Q What did it tell you?</p> <p>23 A I don't remember off the top of my head.</p> <p>24 Q Did it give you a list of companies?</p> <p>25 A I don't know. I'd have to go back and</p>	<p style="text-align: right;">Page 81</p> <p>1 Q I understand that, I'm just asking</p> <p>2 generally, based on the complaint, if Saveology is</p> <p>3 informed or learned that Paramount is using a lead</p> <p>4 provider it hadn't previously known about, does</p> <p>5 Saveology do any investigation on that lead</p> <p>6 provider?</p> <p>7 A Yes.</p> <p>8 Q What kind of investigation do you do?</p> <p>9 A You would Google it, you would go see</p> <p>10 American Protection Services, I'm not familiar with</p> <p>11 who they are. So I would do some sort of</p> <p>12 investigation on it.</p> <p>13 Q A Google type of search?</p> <p>14 A A Google search, speak to the other</p> <p>15 partner companies, group within our company to ask</p> <p>16 if they've ever worked with someone, et cetera.</p> <p>17 Q And did you do that in this situation?</p> <p>18 A I don't recall.</p> <p>19 Q Would you do any due diligence on American</p> <p>20 Protection Services' compliance record?</p> <p>21 A Would I?</p> <p>22 Q Would Saveology?</p> <p>23 MR. PISANI: Objection, calls for</p> <p>24 speculation.</p> <p>25 THE WITNESS: Yeah, I don't understand</p>

<p style="text-align: right;">Page 82</p> <p>1 what you're asking me there.</p> <p>2 BY MS. GOLDBERG:</p> <p>3 Q You're testifying today, correct, as a</p> <p>4 30(b)(6) representative of the company, is that</p> <p>5 correct?</p> <p>6 MR. PISANI: She is. We'll stipulate to</p> <p>7 that.</p> <p>8 BY MS. GOLDBERG:</p> <p>9 Q Great. So I'm trying to ascertain is what</p> <p>10 does Saveology do when it learns the name of another</p> <p>11 company that its affiliate is using?</p> <p>12 MR. PISANI: Objection, calls for</p> <p>13 speculation, not part of the 30(b)(6) notice.</p> <p>14 BY MS. GOLDBERG:</p> <p>15 Q What is the process, if any, that</p> <p>16 Saveology does, do you do anything to vet that other</p> <p>17 company, that third party vendor?</p> <p>18 MR. PISANI: Objection. If you can point</p> <p>19 to me where that is?</p> <p>20 MS. GOLDBERG: Sure. Do you have the</p> <p>21 notice?</p> <p>22 MR. PISANI: Yeah.</p> <p>23 MS. GOLDBERG: That part of compliance.</p> <p>24 MR. PISANI: Falling under telemarketing</p> <p>25 compliance?</p>	<p style="text-align: right;">Page 84</p> <p>1 A The process of the Google search, I could</p> <p>2 possibly call them to ask them what type of</p> <p>3 marketing they do. Most of them clearly state what</p> <p>4 they do online.</p> <p>5 Q Would you do anything beyond a Google</p> <p>6 search or a telephone call?</p> <p>7 A No.</p> <p>8 MR. PISANI: Same objection.</p> <p>9 THE WITNESS: Depending on the nature, I</p> <p>10 don't know.</p> <p>11 BY MS. GOLDBERG:</p> <p>12 Q Would you look to see if they were</p> <p>13 registered with the State of Florida to do</p> <p>14 telemarketing?</p> <p>15 A Would I look? No.</p> <p>16 Q Would Saveology?</p> <p>17 A I can't answer that. I can make an</p> <p>18 assumption that that's within the guidelines.</p> <p>19 Q You're speaking as a corporate</p> <p>20 representative, so I want to understand what the</p> <p>21 company would do.</p> <p>22 A Again, I was only focused on Paramount in</p> <p>23 my relationship with home security.</p> <p>24 Q But you've been director of operations for</p> <p>25 many, I don't know, seven years, is that what you</p>
<p style="text-align: right;">Page 83</p> <p>1 MS. GOLDBERG: Absolutely. Telemarketing</p> <p>2 compliance is a broad category. This clearly</p> <p>3 falls within telemarketing compliance.</p> <p>4 MR. PISANI: Okay. And what's the</p> <p>5 question? You may need it read back unless you</p> <p>6 want to ask it again.</p> <p>7 MS. GOLDBERG: Could you read it back?</p> <p>8 THE COURT REPORTER: Question, "What is</p> <p>9 the process, if any, that Saveology does, do</p> <p>10 you do anything to vet that other company, that</p> <p>11 third party vendor?"</p> <p>12 MR. PISANI: I'm going to object. I don't</p> <p>13 think it's covered by the 30(b)(6) notice, but</p> <p>14 she can answer over the objection.</p> <p>15 THE WITNESS: What is it that Saveology --</p> <p>16 if we were not working with this company and it</p> <p>17 was, nor was Ryan, as I don't know, I don't</p> <p>18 know what's beyond this, then why would I vet</p> <p>19 the company? If they do prerecorded messages,</p> <p>20 it's just a no.</p> <p>21 BY MS. GOLDBERG:</p> <p>22 Q But if Paramount was working with such</p> <p>23 company, would you do anything to vet that company?</p> <p>24 A Yes.</p> <p>25 Q What would you do to vet that company?</p>	<p style="text-align: right;">Page 85</p> <p>1 said?</p> <p>2 A For home security.</p> <p>3 Q For home security, right. So I'm talking</p> <p>4 about a home security question. What would you do</p> <p>5 to vet a third party vendor other than a Google</p> <p>6 search and/or a telephone call to that vendor?</p> <p>7 MR. PISANI: I'm just going to object that</p> <p>8 it's an incomplete hypothetical. But you can</p> <p>9 answer.</p> <p>10 MS. GOLDBERG: You can answer.</p> <p>11 BY MS. GOLDBERG:</p> <p>12 Q Is there anything further that Saveology</p> <p>13 would do in that situation?</p> <p>14 A That Saveology, their due diligence,</p> <p>15 whatever that list is.</p> <p>16 Q You're saying the due diligence list that</p> <p>17 they would do on affiliates?</p> <p>18 A Correct.</p> <p>19 Q And do you know for a fact that that's</p> <p>20 what they would do for a third party or you're</p> <p>21 speculating?</p> <p>22 A I'm speculating.</p> <p>23 Q I don't want you to speculate. Because</p> <p>24 then we all get in trouble.</p> <p>25 A Then I can't answer the question.</p>

<p style="text-align: right;">Page 86</p> <p>1 Q Okay. Did you yourself do anything to</p> <p>2 investigate American Protection Services after you</p> <p>3 read this e-mail?</p> <p>4 A I don't remember.</p> <p>5 Q Did Reid Shapiro who is cc'd on the</p> <p>6 e-mail, did he do anything to look into American</p> <p>7 Protection Services?</p> <p>8 A I can't answer for him.</p> <p>9 Q Did he discuss this American Protection</p> <p>10 Services with you?</p> <p>11 A I don't recall.</p> <p>12 Q Do you recall if he discussed this e-mail</p> <p>13 with you?</p> <p>14 A I don't remember. This is from 2011.</p> <p>15 Q I understand. Did you instruct Paramount</p> <p>16 to terminate its relationship with American</p> <p>17 Protection Services?</p> <p>18 MR. PISANI: Can I just object for a</p> <p>19 second and the only e-mail you're talking about</p> <p>20 is this one where she's asking the question,</p> <p>21 right?</p> <p>22 MS. GOLDBERG: Yes.</p> <p>23 MR. PISANI: I guess I'm, and I don't -- I</p> <p>24 know the standard is with my speaking</p> <p>25 objection, but I guess it's assuming facts not</p>	<p style="text-align: right;">Page 88</p> <p>1 A It's possible.</p> <p>2 Q How would you have done that?</p> <p>3 A Typically Ryan and I whenever we spoke and</p> <p>4 whatever needed to be done would be done.</p> <p>5 Q How do you know that it would be done?</p> <p>6 A There would either be a response or he</p> <p>7 never led me to believe otherwise.</p> <p>8 Q Did he send you a response informing you</p> <p>9 that he had deleted the 303 numbers?</p> <p>10 A I don't know.</p> <p>11 Q Do you know if Reid did any follow-up to</p> <p>12 ensure that Ryan removed the 303 numbers?</p> <p>13 A I don't know.</p> <p>14 Q Okay. Let's move on to another exhibit.</p> <p>15 (Plaintiff's Exhibit 8 was marked for</p> <p>16 identification.)</p> <p>17 THE WITNESS: Okay.</p> <p>18 BY MS. GOLDBERG:</p> <p>19 Q At the bottom of the page is an e-mail</p> <p>20 from Ryan Neill to you and Jeremy Torisk. Who is</p> <p>21 Jeremy?</p> <p>22 A Jeremy was the, he came in to kind of</p> <p>23 oversee the affiliates at a certain point in time</p> <p>24 here.</p> <p>25 Q He was a Saveology employee?</p>
<p style="text-align: right;">Page 87</p> <p>1 in evidence. I mean, she's asking the question</p> <p>2 and she's already said she's not aware of a</p> <p>3 response, whether Ryan said he was working with</p> <p>4 American Protection Services.</p> <p>5 THE WITNESS: You're asking me not to</p> <p>6 speculate. I don't have something in front of</p> <p>7 me that tells me if they were, what their</p> <p>8 response is.</p> <p>9 BY MS. GOLDBERG:</p> <p>10 Q I understand. But somebody with the</p> <p>11 responsibility with compliance and somebody</p> <p>12 responsible with the compliance relationship, this</p> <p>13 is something well within your area of knowledge, so</p> <p>14 I'm trying to ascertain what Saveology did.</p> <p>15 A Right. And I don't remember the</p> <p>16 specifics.</p> <p>17 Q Okay. Let's look at the second paragraph,</p> <p>18 it says, It is also wise to remove any 303 numbers</p> <p>19 from any of your dialing efforts.</p> <p>20 A Uh-huh.</p> <p>21 Q To your knowledge, did Paramount remove</p> <p>22 303 numbers as you suggested?</p> <p>23 A I don't remember.</p> <p>24 Q Did you do any follow-up to ensure that</p> <p>25 Paramount removed those numbers?</p>	<p style="text-align: right;">Page 89</p> <p>1 A Yes. Well, yes.</p> <p>2 Q And did he help you oversee the Paramount</p> <p>3 relationship?</p> <p>4 A Yes.</p> <p>5 Q Did he report to you?</p> <p>6 A He reported to Reid.</p> <p>7 Q I'm just --</p> <p>8 A Shapiro.</p> <p>9 Q Was he junior to you or a senior to you?</p> <p>10 A Junior.</p> <p>11 Q In this e-mail, Ryan says that they had</p> <p>12 been working with a lead provider, American</p> <p>13 Protection Services, that was calling all the wrong</p> <p>14 people, et cetera, and he says, I'm contacting my</p> <p>15 lawyer to settle with this person. Somebody who had</p> <p>16 made a complaint.</p> <p>17 A Okay.</p> <p>18 Q At this point, did, when Saveology --</p> <p>19 sorry, let me just go back and say the subject</p> <p>20 matter is Jay Connor Settlement. Do you know did</p> <p>21 Paramount settle a complaint with Jay Connor?</p> <p>22 A I believe so.</p> <p>23 Q Did Paramount pay money towards that</p> <p>24 settlement?</p> <p>25 A I don't, I don't remember if they actually</p>

<p style="text-align: right;">Page 90</p> <p>1 paid money to them. I don't know.</p> <p>2 Q Okay.</p> <p>3 A I don't remember.</p> <p>4 Q When you were notified about this, did</p> <p>5 Saveology do anything further to investigate whether</p> <p>6 Paramount was using other third party vendors</p> <p>7 besides American Protection Services?</p> <p>8 A I don't recall.</p> <p>9 Q Did Saveology do anything to investigate</p> <p>10 what third party vendors Paramount was using?</p> <p>11 MR. PISANI: Are you talking about after</p> <p>12 this e-mail?</p> <p>13 MS. GOLDBERG: Uh-huh.</p> <p>14 THE WITNESS: After this e-mail, do I</p> <p>15 recall? I'm sure that we had a conversation</p> <p>16 with Ryan, but I don't remember.</p> <p>17 BY MS. GOLDBERG:</p> <p>18 Q So you don't remember having a specific</p> <p>19 conversation with Ryan?</p> <p>20 A I don't remember the dates of the calls</p> <p>21 with Ryan.</p> <p>22 Q Did you have any phone call with Ryan</p> <p>23 concerning what other third party vendors he was</p> <p>24 using?</p> <p>25 A Specific to ADT?</p>	<p style="text-align: right;">Page 92</p> <p>1 resources, but the tactics, yes.</p> <p>2 Q So you don't always know the source of the</p> <p>3 lead?</p> <p>4 A The source, correct.</p> <p>5 Q You said it's Saveology's practice to ask</p> <p>6 about their marketing tactics.</p> <p>7 A Correct.</p> <p>8 Q What does that mean?</p> <p>9 A How they're marketing, obtaining leads,</p> <p>10 how the outbound calls are coming in. To me that's</p> <p>11 a tactic.</p> <p>12 Q That's fine. I just wanted to understand</p> <p>13 what you're saying. That's different, though, from</p> <p>14 asking who their third party vendors are, correct?</p> <p>15 A Correct.</p> <p>16 Q So a tactic would be we're getting them</p> <p>17 from the website, for example?</p> <p>18 A Yes, specific to what website.</p> <p>19 Q And they would tell you the name of the</p> <p>20 website?</p> <p>21 A Right, and what the content is on the</p> <p>22 website.</p> <p>23 Q If they were purchasing leads from a third</p> <p>24 party vendor, is that something Saveology would</p> <p>25 know?</p>
<p style="text-align: right;">Page 91</p> <p>1 Q Yes.</p> <p>2 A Specific to ADT, yeah, I would want to</p> <p>3 know who he was using.</p> <p>4 Q So you would have asked him?</p> <p>5 A I would have asked him at some point.</p> <p>6 Q Do you know that you asked him or are you</p> <p>7 guessing that you asked him?</p> <p>8 A I'm sure that we've had conversations as</p> <p>9 to very clear as to what the marketing guidelines</p> <p>10 say and that there's no prerecorded messages.</p> <p>11 Q I understand that, but I'm asking</p> <p>12 something different. Did you have conversations</p> <p>13 where you asked Ryan to give you the names of all</p> <p>14 the third party vendors that he was using?</p> <p>15 A I don't recall.</p> <p>16 Q Did anybody at Saveology ask Paramount to</p> <p>17 provide a list of the third party vendors that it</p> <p>18 was using?</p> <p>19 A I don't remember.</p> <p>20 Q Was it Saveology's practice to obtain a</p> <p>21 list of third party vendors used by its affiliates?</p> <p>22 A Was it a practice? Yes.</p> <p>23 Q It was Saveology's practice to do that?</p> <p>24 A To understand the marketing tactics. Like</p> <p>25 I said, they don't always tell you who exactly their</p>	<p style="text-align: right;">Page 93</p> <p>1 A Purchasing leads from a third party</p> <p>2 vendor? Is that something Saveology would know?</p> <p>3 Exactly who the lead source was? Possibly, possibly</p> <p>4 not.</p> <p>5 Q Okay.</p> <p>6 A Again, it's a secret, proprietary thing</p> <p>7 sometimes.</p> <p>8 Q So there are times that your affiliate</p> <p>9 might not disclose to you what third party vendors</p> <p>10 they were using?</p> <p>11 A The name of them, no.</p> <p>12 Q Was there ever a time that Saveology</p> <p>13 formally asked for a list of third party vendors</p> <p>14 from each of their affiliates?</p> <p>15 A I don't know if we asked. Again, this is</p> <p>16 about Paramount, I don't know if we've asked them</p> <p>17 for it. I don't recall.</p> <p>18 Q I think earlier you testified that you</p> <p>19 manage about ten affiliates.</p> <p>20 A Uh-huh.</p> <p>21 Q Have you ever asked any of those</p> <p>22 affiliates to provide a list of the third party</p> <p>23 vendors that they use?</p> <p>24 A I don't remember.</p> <p>25 Q I just want to understand. In the six or</p>

24 (Pages 90 - 93)

<p style="text-align: right;">Page 94</p> <p>1 seven years that you were director of operations,  2 you were managing about ten affiliates, is that  3 correct?  4 A Yes.  5 Q So in those years as director of  6 operations, you don't recall ever asking an  7 affiliate for a list of its third party vendors?  8 A Could I have? Yes.  9 Q But you don't recall doing so?  10 A It's not that I don't remember  11 specifically if I asked Paramount in an e-mail or  12 something to provide me all the names of the  13 companies, it's more the marketing tactics.  14 Q Okay. But is it a formal requirement of  15 Saveology that its affiliates provides a list of its  16 third party vendors?  17 A Is it a policy? I don't know.  18 Q To your knowledge as the director of  19 operations, have you ever implemented such a  20 practice?  21 A Have I asked for names of third party  22 vendors?  23 Q Correct.  24 A Could I have? Sure.  25 Q Well, as a representative of the company,</p>	<p style="text-align: right;">Page 96</p> <p>1 A If anyone representing themselves as ADT  2 Home Security, it would be corrected as no, this is  3 how the greeting is.  4 Q Did, do you recall whether Ryan said to  5 you, yes, we're doing that?  6 A No, no.  7 Q No, you don't recall?  8 A No, I don't recall.  9 Q Okay. Do you remember what Ryan's, says,  10 Please call me. Do you remember if you had a  11 conversation with Ryan after this e-mail?  12 A Do I remember? Well, I'm sure I had many  13 conversations with Ryan after this e-mail, but in  14 pertaining to this, I don't remember the  15 conversation in depth, no.  16 Q Do you remember if you responded to ADT  17 about this complaint?  18 A I'm sure I would have. I responded to  19 anything ADT sent.  20 Q Do you remember what your response to ADT  21 was?  22 A No, not verbatim.  23 Q Okay.  24 MS. GOLDBERG: I want to mark this. I  25 apologize, I don't have another copy of this.</p>
<p style="text-align: right;">Page 95</p> <p>1 did you ever?  2 A I don't remember. I don't -- I don't, I  3 don't remember off the top of my head.  4 MS. GOLDBERG: Okay. Let's look at  5 another exhibit.  6 (Plaintiff's Exhibit 9 was marked for  7 identification.)  8 BY MS. GOLDBERG:  9 Q This is an e-mail to you from Ryan and it  10 concerns a complaint, somebody called in and said a  11 call rep is calling me saying "This is Dan with ADT  12 Home Security." Did Paramount greet its customers  13 saying, "This is Dan with ADT Home Security"?  14 A In our script thing and in my audits of  15 them, it was no, this is so-and-so from, by ADT  16 powered by Saveology or something. But we were  17 never able to represent ourselves as ADT.  18 Q Did you ask Ryan Neill if any of his  19 telephone agents ever answered the phone by saying,  20 "This is Dan with ADT Home Security"?  21 A Did I ask Ryan? I'm sure I asked Ryan,  22 because it says it here, but if I did, it was  23 corrected.  24 Q I'm sorry, you're saying if Paramount was  25 doing that, you corrected that?</p>	<p style="text-align: right;">Page 97</p> <p>1 It was marked yesterday.  2 (Plaintiff's Exhibit 10 was marked for  3 identification.)  4 BY MS. GOLDBERG:  5 Q Was this your response to ADT following  6 Exhibit 9?  7 A Correct. Yes, sorry.  8 Q That's okay. You told Dan Geiger, Yes, we  9 do work with Paramount, but they aren't an outbound  10 team?  11 A Correct.  12 Q Okay. That's all on this, thank you.  13 MS. GOLDBERG: Let's mark another exhibit.  14 MR. PISANI: Sorry, are we marking this?  15 MS. GOLDBERG: Can we just go off the  16 record for a minute.  17 (Off-the-record discussion.)  18 (Plaintiff's Exhibit 11 was marked for  19 identification.)  20 BY MS. GOLDBERG:  21 Q In the ADT Elephant Group contract,  22 Saveology was prohibited from representing itself as  23 ADT, correct?  24 A Correct.  25 Q And is that why you wrote, PS - please</p>

25 (Pages 94 - 97)



<p style="text-align: right;">Page 98</p> <p>1 remove that ADT logo from your e-mails. That is the 2 wrong logo - we cannot put the ADT logo on our 3 e-mails? 4 A Correct. 5 Q Had anyone given Paramount permission to 6 use that logo? 7 A This says this is the wrong logo, there's 8 an ADT corporate logo and there's an ADT dealer 9 logo. 10 Q Right. And on the second page, the 11 Paramount Home Security Expert was using the ADT 12 authorized dealer logo. 13 A Yeah, but that was the, I believe that 14 that logo at that time was outdated. 15 Q So this is the wrong logo? 16 A I believe. I know at some point, ADT did 17 change their logo and gave us updates. Exactly what 18 the date is, I don't know, but if I wrote that, it 19 would be somewhere around there, I assume. 20 Q Did Saveology ever use a logo that said 21 ADT authorized dealer? 22 A Yes, that was the logo we were permitted 23 to use. 24 Q Okay. 25 MS. GOLDBERG: Let's mark this as 12.</p>	<p style="text-align: right;">Page 100</p> <p>1 A With ADT's specifics on it? No. As you 2 see, it would need to be approved. 3 Q And second line, you say, We will be fined 4 for texting the phone number without it being 5 scrubbed. Were you fined for any texting in this 6 situation? 7 A I don't recall any fines from ADT. 8 Q Did you do anything to ensure that 9 Paramount did not do any text messages to phone 10 without scrubbing? 11 A Did I do anything to ensure that it's not 12 a tactic that they had told me and it wasn't, if 13 it's not a tactic they had told me and I don't know 14 where the response is to this. I don't recall 15 Paramount doing any text messaging. 16 Q Do you know if they did any text messaging 17 after the date of this e-mail? 18 A Not to my knowledge. 19 Q Did you do anything to verify that they 20 weren't text messages after the date of this e-mail? 21 A I don't recall. If they said they weren't 22 text messages, as you can see in Ryan's response, it 23 says, I did not create this page, it was off 24 immediately. So -- and then it says, We as a 25 company are not doing any text messages. But</p>
<p style="text-align: right;">Page 99</p> <p>1 (Plaintiff's Exhibit 12 was marked for 2 identification.) 3 BY MS. GOLDBERG: 4 Q On the bottom of the page is an e-mail 5 from you to Ryan saying, Let me know if you are 6 doing text messages to phones. 7 A Okay. 8 Q If Paramount had been doing text messages 9 to phones, is that something they would have been 10 required to tell Saveology? 11 A Yes. 12 Q And they hadn't informed you that they 13 were doing that, correct? 14 A That's what this e-mail is asking, 15 correct. 16 Q Okay. If you move slightly up in the 17 page, Ryan responds, Daphne, this is our sleep 18 safely now website which has been approved and is 19 generic. And at the top of the page, you respond to 20 him, It's not generic because the terms and 21 conditions have ADT specifics all over it. Is that 22 permissible? 23 A Was it permissible? 24 Q Were they allowed to have a website like 25 that?</p>	<p style="text-align: right;">Page 101</p> <p>1 obviously, someone else is trying to generate leads 2 for Paramount. This creative was not approved by us 3 and they are doing this on their own and will be 4 turned off ASAP. That's from Ryan to me. 5 Q So there were text messages, you didn't 6 know the source of those text messages, he said he's 7 not doing any, did you do anything to investigate 8 the source of these text messages? 9 A No. 10 Q It says, Obviously someone else is trying 11 to generate leads for Paramount. Did you 12 investigate who that someone else is? 13 A I did not. 14 MS. GOLDBERG: Let's mark this as 13. 15 (Plaintiff's Exhibit 13 was marked for 16 identification.) 17 BY MS. GOLDBERG: 18 Q Here you've asked Ryan to let me know how 19 and when a specific phone call, phone number was 20 dialed by Paramount. You say you had personally put 21 it on the Do Not Call List, correct? 22 A Correct. That's what the e-mail says, 23 yes. 24 Q Did Paramount respond to you with the 25 information that you had requested in this e-mail?</p>



<p style="text-align: right;">Page 102</p> <p>1 A I don't know.</p> <p>2 Q Did Paramount typically respond with the</p> <p>3 requested information?</p> <p>4 A Yes.</p> <p>5 Q Was it at all a concern to you that you</p> <p>6 had personally put a number on the DNC list and now</p> <p>7 you see that there's an allegation that it had been</p> <p>8 dialed by Paramount?</p> <p>9 A Correct, so I asked to provide the</p> <p>10 information as to why it was being dialed.</p> <p>11 Q Did you do anything further to ensure that</p> <p>12 Paramount was complying with the Do Not Call List</p> <p>13 rules and regulations?</p> <p>14 A Did I do anything further such as?</p> <p>15 Q Did you --</p> <p>16 A Ask me the question further, I'm sorry.</p> <p>17 Q Sure. Did you do anything further to</p> <p>18 ascertain that Paramount was in compliance with the</p> <p>19 do not call rules?</p> <p>20 A I don't know. I don't know.</p> <p>21 Q Okay. Earlier, you said that you became</p> <p>22 aware that Paramount was using third party lead</p> <p>23 providers, is that correct?</p> <p>24 A Correct, according to that, yes.</p> <p>25 Q Were affiliates permitted to use third</p>	<p style="text-align: right;">Page 104</p> <p>1 So when you asked me was the name of a third</p> <p>2 party approved by us, I don't know. I don't</p> <p>3 know if there was e-mails back and forth with</p> <p>4 it. I can't answer a specific to that. I</p> <p>5 would have to see it." Question, "Okay. I'm</p> <p>6 confused. Sorry. Is there anybody else who</p> <p>7 would know?"</p> <p>8 THE WITNESS: I don't know what you're</p> <p>9 asking me. Who would know what?</p> <p>10 MS. GOLDBERG: Let's start again, because</p> <p>11 I'm a little confused now.</p> <p>12 BY MS. GOLDBERG:</p> <p>13 Q I may have asked it, but I'm confused, so</p> <p>14 I apologize. I'm going to go through it again. Did</p> <p>15 Paramount ask you for approval to use third party</p> <p>16 lead providers?</p> <p>17 A Specific to their name or to the marketing</p> <p>18 tactic? I think that's where I'm confused with</p> <p>19 this.</p> <p>20 Q Okay. Not for the marketing tactics, as</p> <p>21 in we want to use the website, is this content okay,</p> <p>22 but if they were purchasing leads from a third</p> <p>23 party, did they ask Saveology's approval to do that?</p> <p>24 A Did they -- I'm guessing so. Did they</p> <p>25 ask --</p>
<p style="text-align: right;">Page 103</p> <p>1 party lead providers?</p> <p>2 A If they were approved through us.</p> <p>3 Q Did Paramount seek approval for those</p> <p>4 third party lead providers?</p> <p>5 A Any one that I was aware of, yes.</p> <p>6 Q I think earlier, I had asked you, did they</p> <p>7 give you a list of third party lead providers and</p> <p>8 you said no.</p> <p>9 A Right. That's the marketing tactics. So</p> <p>10 when you asked me was the name of a third party</p> <p>11 approved by us, I don't know. I don't know if there</p> <p>12 was e-mails back and forth with it. I can't answer</p> <p>13 a specific to that. I would have to see it.</p> <p>14 Q Okay. I'm confused. Sorry. Is there</p> <p>15 anybody else who would know?</p> <p>16 A Who would know what? The question, just</p> <p>17 read it back to me, I'm sorry.</p> <p>18 MS. GOLDBERG: Can you read it back?</p> <p>19 THE COURT REPORTER: Question, "Did</p> <p>20 Paramount seek approval for those third party</p> <p>21 lead providers?" Answer, "Any one that I was</p> <p>22 aware of, yes." Question, "I think earlier, I</p> <p>23 had asked you, did they give you a list of</p> <p>24 third party lead providers and you said no."</p> <p>25 Answer, "Right. That's the marketing tactics.</p>	<p style="text-align: right;">Page 105</p> <p>1 Q Let me start from the beginning. Did</p> <p>2 Saveology require Paramount to get approval in order</p> <p>3 to purchase leads from third parties?</p> <p>4 A Yes.</p> <p>5 Q Was there a specific process that</p> <p>6 Paramount would have to go through to obtain consent</p> <p>7 for that?</p> <p>8 A Yes, the marketing tactics would have to</p> <p>9 be approved.</p> <p>10 Q The marketing tactics would have to be</p> <p>11 approved?</p> <p>12 A Correct.</p> <p>13 Q But would Paramount have to submit the</p> <p>14 name of a vendor from whom it was purchasing leads</p> <p>15 in order to go ahead and purchase leads?</p> <p>16 A No. That's what I was saying earlier,</p> <p>17 that's kind of proprietary to them.</p> <p>18 Q So it's proprietary to them who they use</p> <p>19 as third party vendors?</p> <p>20 A The name.</p> <p>21 Q The name. So Saveology did not know who</p> <p>22 Paramount was purchasing leads from, is that</p> <p>23 correct?</p> <p>24 A I can't answer that. Not specifically.</p> <p>25 Q I don't understand that answer. Did</p>

<p style="text-align: right;">Page 106</p> <p>1 Saveology know the names of the vendors from whom</p> <p>2 Paramount was purchasing leads?</p> <p>3 A No, no.</p> <p>4 Q Did Saveology ask for that information</p> <p>5 ever?</p> <p>6 A The name? I don't know if we asked ever.</p> <p>7 Q Well, who would know, who at Saveology</p> <p>8 would know if Saveology ever asked Paramount for the</p> <p>9 names of its third party lead providers?</p> <p>10 A Who at Saveology would know? I don't</p> <p>11 know. It's industry standard that there's a</p> <p>12 proprietary thing of a secret sauce of a name.</p> <p>13 Q I don't know what secret sauce is.</p> <p>14 A I'm going to explain to it. Of a name of</p> <p>15 where you're generating your leads from. What we do</p> <p>16 is we approve the marketing tactics. Because if you</p> <p>17 give us the name, why wouldn't I go directly to the</p> <p>18 person, if you think of it from a marketing</p> <p>19 perspective, and a competitor's. That's really in</p> <p>20 our industry what that is when you're generating</p> <p>21 leads.</p> <p>22 Q And the tactics, if you could explain it</p> <p>23 to me again is simply the website content they put</p> <p>24 up?</p> <p>25 A Is how they're updating the leads.</p>	<p style="text-align: right;">Page 108</p> <p>1 Saveology never required Paramount to disclose the</p> <p>2 name of the vendor from whom it obtained the lead?</p> <p>3 A Well, it's not correct, because if you</p> <p>4 look back in the e-mails, I'm asking specifically</p> <p>5 are you working with X, Y and Z.</p> <p>6 Q That was in response to a specific</p> <p>7 complaint.</p> <p>8 A I don't want to get hung up on the word.</p> <p>9 Q I understand. Fair enough. You said on</p> <p>10 occasion, you would ask if that was in response to a</p> <p>11 specific complaint, right?</p> <p>12 A Correct.</p> <p>13 Q As a matter of practice, did Saveology ask</p> <p>14 Paramount to disclose the names of its third party</p> <p>15 lead vendors?</p> <p>16 A Again, it's their proprietary information.</p> <p>17 Q So no?</p> <p>18 A No.</p> <p>19 Q Okay.</p> <p>20 (Plaintiff's Exhibit 14 was marked for</p> <p>21 identification.)</p> <p>22 MR. PISANI: Off the record.</p> <p>23 (Brief recess.)</p> <p>24 BY MS. GOLDBERG:</p> <p>25 Q I've given you Exhibit 14, Elephant Group,</p>
<p style="text-align: right;">Page 107</p> <p>1 Q So give me examples of tactics.</p> <p>2 A Was it a direct mail, was it, it's the</p> <p>3 marketing, it's a marketing channel as I described</p> <p>4 earlier, that's what the tactics are.</p> <p>5 Q I'm sorry, I don't have a background in</p> <p>6 marketing. So indulge me.</p> <p>7 A It's online and off line, so it's direct</p> <p>8 mail, it could be paid search.</p> <p>9 Q What does paid search mean?</p> <p>10 A Paid search is online where you actually</p> <p>11 pay to bid on a branded term. There's also generic</p> <p>12 where it's not branded, where it's home security</p> <p>13 versus ADT. So ADT's brand which is home security</p> <p>14 would be generic.</p> <p>15 Q So they would tell you the method of how</p> <p>16 they obtained the lead?</p> <p>17 A Correct, the tactic.</p> <p>18 Q But Paramount never disclosed to you from</p> <p>19 whom they obtained that lead, is that correct?</p> <p>20 A Correct.</p> <p>21 Q And Saveology never required Paramount to</p> <p>22 disclose from whom it obtained a lead?</p> <p>23 A The name, no. Because of the secret</p> <p>24 sauce.</p> <p>25 Q Okay. So my statement was correct, that</p>	<p style="text-align: right;">Page 109</p> <p>1 Inc.'s Answers to Third Party Plaintiff ADT's First</p> <p>2 Set of Interrogatories. Have you ever seen this</p> <p>3 before?</p> <p>4 A Not to my knowledge. I'm reading this</p> <p>5 now. I don't know -- no, I don't think so.</p> <p>6 Q Do you --</p> <p>7 MR. PISANI: As we said off the record, I</p> <p>8 never showed it to her.</p> <p>9 BY MS. GOLDBERG:</p> <p>10 Q Do you know if anybody at Saveology has</p> <p>11 seen this document?</p> <p>12 A I wouldn't know.</p> <p>13 Q These are answers to questions. Do you</p> <p>14 know who provided information for the answers to</p> <p>15 these questions?</p> <p>16 A No. I didn't read through this. No.</p> <p>17 Q If you want to take another minute, that's</p> <p>18 fine. I don't want to rush you.</p> <p>19 A Okay. It's like eight pages. I wouldn't</p> <p>20 know.</p> <p>21 MR. PISANI: What's the question?</p> <p>22 MS. GOLDBERG: I'm trying to ascertain who</p> <p>23 provided the information to answer these</p> <p>24 questions.</p> <p>25 MR. PISANI: Do you know?</p>

<p style="text-align: right;">Page 110</p> <p>1 THE WITNESS: I haven't read this, but no,  2 I don't know. I don't know who wrote this.  3 I'm reading.  4 BY MS. GOLDBERG:  5 Q As the representative of the company,  6 you're speaking on behalf of Saveology right now, so  7 I'm trying to understand this is Saveology's  8 response to our discovery request, who provided the  9 information in this?  10 A I don't know. You asked me to read this  11 and I'm asking to give me a moment to read this.  12 Q Sure, absolutely.  13 A I have no idea what I'm even looking at.  14 Q Take as much time as you need.  15 MR. PISANI: And I'm going to object.  16 It's beyond the scope of the 30(b)(6).  17 MR. MCNEW: Off the record.  18 (Off-the-record discussion.)  19 BY MS. GOLDBERG:  20 Q Can I direct your attention to Page 4,  21 specifically question and answer number 8 and number  22 9. Question 8 says, Identify any limitations,  23 restrictions or rules you placed on Paramount  24 concerning the subcontracting of marketing services.  25 And the answer says, In part, Paramount Media Group</p>	<p style="text-align: right;">Page 112</p> <p>1 is a specific interrogatory question. You're  2 asking for a factual basis for an answer that  3 she didn't write.  4 MS. GOLDBERG: Elephant/Saveology  5 Telemarketing Compliance. This falls within  6 telemarketing compliance.  7 MR. PISANI: If you want to ask her about  8 telemarketing compliance, ask her about  9 telemarketing compliance.  10 MS. GOLDBERG: Whether their telemarketing  11 affiliates are allowed to subcontract or not  12 falls within telemarketing compliance.  13 MR. PISANI: You can ask her that  14 question, sure. But that's a different  15 question than you asked.  16 MS. GOLDBERG: I'm trying to find out what  17 is the factual basis for this answer.  18 MR. PISANI: Sure, and I think that's an  19 improper question.  20 MR. MCNEW: She's the corporate witness.  21 MR. PISANI: Sure.  22 MR. MCNEW: This is a question going to  23 the corporate compliance issues. It's squarely  24 at issue in this case and you're saying that  25 she can't testify because she's never seen the</p>
<p style="text-align: right;">Page 111</p> <p>1 was not permitted to subcontract any services  2 without receiving prior written approval.  3 A Okay.  4 Q My question to you is what is the factual  5 basis for that answer?  6 MR. PISANI: I'm going to object. First  7 of all, she's testified she's never seen this  8 before.  9 MS. GOLDBERG: She's reading it now.  10 MR. PISANI: Fine.  11 MS. GOLDBERG: I want to ascertain what  12 are the facts that underlie this answer.  13 MR. PISANI: She's reading this now. How  14 can she provide a factual basis of something  15 she's just reading now? She didn't write the  16 answers, how can she provide an answer?  17 MS. GOLDBERG: She's speaking about the  18 company.  19 MR. PISANI: This is not on the 30(b)(6)  20 notice.  21 MS. GOLDBERG: This is compliance.  22 MR. PISANI: If you want ask her a  23 question about compliance.  24 MS. GOLDBERG: This is compliance, guys.  25 MR. PISANI: This is not compliance. This</p>	<p style="text-align: right;">Page 113</p> <p>1 interrogatory response before?  2 MR. PISANI: What I'm saying, that's not  3 the question, counsel. The question is the  4 factual basis for this particular interrogatory  5 answer. If she wants to ask a question about  6 telemarketing compliance, Ms. Fernandez is here  7 to testify on behalf of the corporation, but  8 that wasn't the question. The question was  9 with regard to this specific interrogatory  10 answer and the basis for that answer.  11 MR. MCNEW: Which is an answer offered by  12 the corporation in an interrogatory.  13 MR. PISANI: That she's never, she's never  14 seen this document before.  15 MR. MCNEW: She is answering as the  16 corporation.  17 MR. PISANI: We can go back and forth. We  18 can go back and forth on this, but I'm  19 objecting to --  20 BY MS. GOLDBERG:  21 Q I'm just going to read to you a sentence.  22 Paramount Media Group is not permitted to  23 subcontract any services without receiving prior  24 written approval. Do you have any understanding as  25 to what the basis of that statement is?</p>

<p style="text-align: right;">Page 114</p> <p>1 A Of this particular statement or are you 2 asking me what the prior consent says? I don't know 3 if you're asking me about this statement or what the 4 prior written consent, receiving prior written 5 approval. 6 Q Is it true that Paramount Media Group was 7 not permitted to subcontract without receiving prior 8 written approval? 9 A Is it true, yes. That's what our 10 guidelines state. 11 Q Can you show me where in the guidelines it 12 says that? Are you talking about the guidelines 13 attached to the addendum? I believe that was 14 Exhibit 2? What exhibit number was the addendum? 15 A 3. 16 Q Okay. 17 A I don't see it in this agreement. I don't 18 know verbatim what the Saveology Network Agreement 19 says. 20 Q I'd ask again if that network agreement 21 could be produced to us. I've asked previously and 22 we haven't seen that yet. Do you have any other 23 knowledge that would support this statement in the 24 answer to number 8? 25 MR. PISANI: Same objection.</p>	<p style="text-align: right;">Page 116</p> <p>1 Q Not use of the third party vendor? 2 A Sorry, third party vendor? Well, a third 3 party vendor could be putting up, the name, no, the 4 marketing tactic, yes, it needs to be approved. 5 Q But the identity of the third party vendor 6 does not need to be approved? 7 A Again, that's the secret sauce that could 8 be proprietary to that affiliate. 9 Q I want to make sure I understand. So 10 Saveology would not know the entity of its third 11 party vendors, correct? 12 A It is possible that they don't want to 13 disclose it, correct. Does that answer? 14 Q Okay. I'm going to show you another 15 exhibit. 16 THE WITNESS: This one's done? 17 MS. GOLDBERG: Yes. I guess this is 15. 18 (Plaintiff's Exhibit 15 was marked for 19 identification.) 20 BY MS. GOLDBERG: 21 Q In this e-mail, Jeremy Torisk says, How 22 about adding or creating another addendum 23 requesting/mandating sub affiliate approval as well 24 as lead source approval? Was that ever done? 25 A I don't know. I can't answer. This was</p>
<p style="text-align: right;">Page 115</p> <p>1 BY MS. GOLDBERG: 2 Q Do you have any other knowledge for the 3 statement that Paramount Media Group was not 4 permitted to subcontract any services without 5 receiving prior written approval? 6 A Any other knowledge? Again, I don't know 7 if I'm not understanding the question. 8 Q I apologize. Let me rephrase it. Where 9 else would that rule or restriction be contained, if 10 it's not in the addendum, is there anyplace where 11 that rule might be? 12 A It would be verbal. It would be in 13 conversation and I don't know if it's in that other 14 agreement. 15 Q Okay? 16 A I don't know if those exact words are in 17 that other agreement. 18 Q Okay. We will check the agreement. Did 19 anybody at Saveology ever verbally inform Paramount 20 Media Group that it wasn't able to subcontract? 21 A As I stated earlier, the marketing tactics 22 needed to be approved. 23 Q And that is only concerning the marketing 24 tactics themselves, correct? 25 A Correct.</p>	<p style="text-align: right;">Page 117</p> <p>1 Jeremy to Robin Feinglas. 2 Q As the corporate representative for 3 Saveology, can you tell me if Saveology ever created 4 another addendum mandating sub affiliate approval as 5 well as lead source approval? 6 A I'm not aware. 7 Q So you're not aware of any document or 8 contract that required sub affiliate approval? 9 A I don't recall. 10 Q Is there anybody who would know that? 11 A Robin Feinglas would. 12 Q If the company had created another 13 addendum mandating sub affiliate approval, wouldn't 14 that be something that you would use in your 15 interactions with your affiliates? 16 A If the company mandated it, yes. 17 Q Have you ever seen any document either 18 given to an affiliate or returned from an affiliate 19 mandating sub affiliate approval? 20 A Have I ever seen? I don't recall. 21 Q Did you yourself create any addendum 22 mandating sub affiliate or lead source approval? 23 A I don't remember. 24 Q Are you aware of anyone else at Saveology 25 who created such a document?</p>

<p style="text-align: right;">Page 118</p> <p>1 A I think -- I don't remember.</p> <p>2 Q Okay. I just want to clarify something</p> <p>3 you had testified earlier. You said you had</p> <p>4 supervised ten affiliates, is that correct?</p> <p>5 A I think I said five to ten.</p> <p>6 Q Approximately. Were all of those</p> <p>7 affiliates marketing ADT products and services?</p> <p>8 A That I supervised, yes.</p> <p>9 Q Okay. I know you said that there was an</p> <p>10 application process. Who ultimately decided, who</p> <p>11 ultimately approved whether a company becomes an</p> <p>12 affiliate or not?</p> <p>13 A Who ultimately -- the company, the company</p> <p>14 where the application is coming through. The</p> <p>15 company, myself, Reid, the paralegal.</p> <p>16 Q Right. But I'm just trying to figure out</p> <p>17 the identify of the individuals who would make that</p> <p>18 decision, so it would be you, Reid and Robin</p> <p>19 Feinglas?</p> <p>20 A Right. And from time to time our CEO,</p> <p>21 chief marketing officer.</p> <p>22 Q In 2010, '11, do you know who that was?</p> <p>23 A I want to say Michael Aronowitz.</p> <p>24 Q And what criteria did you use in</p> <p>25 determining whether to approve a company as an</p>	<p style="text-align: right;">Page 120</p> <p>1 were referred to us, the due diligence,</p> <p>2 obviously the website, any type of prerecorded</p> <p>3 message or anything like that, they just were</p> <p>4 done, it was a no.</p> <p>5 BY MS. GOLDBERG:</p> <p>6 Q How frequently did you disapprove or</p> <p>7 refuse approval status to an affiliate applicant?</p> <p>8 A Oh, I've refused quite a few. Quite a</p> <p>9 few. I don't know what the number is, but I've</p> <p>10 refused quite a few.</p> <p>11 Q Did all affiliates have signed contracts</p> <p>12 with Saveology?</p> <p>13 A For home security?</p> <p>14 Q Yes, yes. Home security division,</p> <p>15 correct.</p> <p>16 A Yes, to my knowledge, yes.</p> <p>17 Q Let me state that slightly differently.</p> <p>18 Did all affiliates who were marketing ADT products</p> <p>19 and services have signed contracts with Saveology?</p> <p>20 A Have signed contracts? I believe they're</p> <p>21 called agreements and addendums. I don't want to</p> <p>22 get hung up on words.</p> <p>23 Q That's fine. So did all affiliates who</p> <p>24 were marketing ADT products and services have signed</p> <p>25 addendums with Saveology?</p>
<p style="text-align: right;">Page 119</p> <p>1 affiliate of Saveology?</p> <p>2 A The marketing tactics.</p> <p>3 Q Anything else?</p> <p>4 A What did I personally do?</p> <p>5 Q You and/or Reid and Robin.</p> <p>6 A I can't answer on their behalf.</p> <p>7 Q Yes, you can, because you're representing</p> <p>8 the company.</p> <p>9 MR. PISANI: That's not true. She's</p> <p>10 representing the company, but she can't answer</p> <p>11 on their behalf. I think it's unfair.</p> <p>12 BY MS. GOLDBERG:</p> <p>13 Q What criteria did the company use in</p> <p>14 determining whether to approve an affiliate?</p> <p>15 A What criteria I chose?</p> <p>16 MR. PISANI: The company. She's asking</p> <p>17 about what the company did.</p> <p>18 THE WITNESS: Well, as we discussed</p> <p>19 earlier, it would go through the application</p> <p>20 online, the Saveology Network, it would go</p> <p>21 through that process of that group who was in</p> <p>22 charge of the affiliates, the contract and the</p> <p>23 agreement regarding the application was to,</p> <p>24 most of these guys were referred. Most of any</p> <p>25 type of partner company that we worked with</p>	<p style="text-align: right;">Page 121</p> <p>1 A Yes, they had an agreement with Saveology,</p> <p>2 correct.</p> <p>3 Q Okay. Did you obtain ADT's written</p> <p>4 consent for any of the affiliates that were</p> <p>5 marketing ADT's products and services? Did you</p> <p>6 meaning you the company.</p> <p>7 A Did we receive written consent? No.</p> <p>8 Not -- it may, there may be e-mails back and forth</p> <p>9 that says yes, this is okay for you to use them.</p> <p>10 Q Are you aware of any document that grants</p> <p>11 written consent to Saveology to use affiliates?</p> <p>12 MR. PISANI: To Saveology?</p> <p>13 BY MS. GOLDBERG:</p> <p>14 Q Let me rephrase that. Are you aware of</p> <p>15 any document in which ADT gives written consent to</p> <p>16 Saveology to use as an affiliate?</p> <p>17 A I'm aware of it after the effect of all of</p> <p>18 this, that there's a questionnaire.</p> <p>19 Q After the Desai lawsuit?</p> <p>20 A Yes.</p> <p>21 Q Okay. Let's talk about prior to the Desai</p> <p>22 lawsuit. Are you aware of any document in which ADT</p> <p>23 grants consent to Saveology to use an affiliate?</p> <p>24 A Am I aware of any document, meaning do I</p> <p>25 know what it looks like?</p>



<p style="text-align: right;">Page 122</p> <p>1 Q No, do you know the existence of any 2 document in which ADT granted written consent to 3 Saveology to use as an affiliate? 4 A There could be e-mails back and forth with 5 Dan Geiger, I'm not -- I'm not sure how to answer 6 that question. I do know of that document after the 7 lawsuit. That's why I'm trying to -- 8 Q I understand. I want to talk pre-lawsuit 9 at this point. With whom at ADT did you 10 communicate? 11 A Primarily Dan Geiger and Kim Bandz. 12 Q Now, Kim Bandz is the woman who would 13 review and approve website content, correct? 14 A She was the marketing guidelines director, 15 I think. 16 Q Aside from Kim and Dan Geiger, is there 17 anyone else at ADT that you would communicate with? 18 A Yes. Do I know all their names? Is that 19 what you're asking me, all the names? 20 Q No, I just wanted a sense of generally who 21 you communicated with. If you don't know their 22 names, maybe their department or their position. 23 A Yes, the compliance department. 24 Q Okay. Did you ever communicate with a man 25 named Steve Gribbon?</p>	<p style="text-align: right;">Page 124</p> <p>1 questions to. 2 Q Did you ever verbally communicate with Dan 3 Geiger concerning consent for use of an affiliate? 4 A Yes. 5 Q And what was the substance of that 6 communication, how many times, let me start with 7 that, how many times did you communicate with Dan 8 Geiger? 9 A I can't give you a number, but I've 10 communicated with Dan on numerous occasions as to 11 hey, Dan, did you ever hear of this particular 12 affiliate partner company, let's say Tom Jones, you 13 know, Dan kind of knew who, who to use and who not 14 to use and we always had the kind of conversation of 15 Dan, hey, is so-and-so in the earshot, no, or Dan 16 would give me a head's up and say, hey, by the way, 17 don't use so-and-so. 18 Q So were these sort of informal requests 19 for information? 20 A I don't know if you'd call them informal, 21 but it was an ongoing communication Dan and I had. 22 Q Did anyone at Saveology ever explicitly 23 request ADT's express written consent to use an 24 affiliate? 25 A Explicitly request? Just define, I'm not</p>
<p style="text-align: right;">Page 123</p> <p>1 A Yes. 2 Q Did you ever -- what did you communicate 3 with Steve Gribbon about, what topics? 4 A Oh, the topics, I don't necessarily know. 5 He was at most of the functions that I was at that 6 ADT had invited us to, but to just call him on the 7 phone, I don't recall if I've ever called him 8 personally. 9 Q Did you ever exchange written 10 correspondence with him? 11 A I could have over the seven years. I 12 don't know. He could have been cc'd on an e-mail. 13 There's people that I talk to there, I don't 14 remember specifically if I had a one-on-one 15 communication with. 16 Q That's fine. Prior to the Desai lawsuit, 17 did Saveology ever request ADT's express written 18 consent to use an affiliate? 19 A Prior to me, I don't know. 20 Q What do you mean? 21 A Prior to me, there was someone else 22 managing the account, I don't know. 23 Q From your tenure on. 24 A No, I had a relationship with Dan Geiger 25 that I verbally would communicate many of these</p>	<p style="text-align: right;">Page 125</p> <p>1 sure I understand. 2 Q Specifically request ADT to provide 3 written consent to use an affiliate. 4 A I don't know. 5 Q Who would know? 6 A After the lawsuit, yes. That's when we 7 were given the questionnaire. 8 Q My question concerns prior to the lawsuit. 9 A Did I expressly -- like I said, there 10 could be e-mail communication back and forth between 11 Dan and I. 12 Q But you're not aware of any specific 13 e-mail that does so? 14 A Specific, no. You could bring one up, I'm 15 sure. 16 Q I don't have any, that's why I'm asking. 17 I'm not aware of any such e-mail. Are you aware of 18 any such e-mail? 19 A I'm sure there's communication back and 20 forth just like there's one that Dan says are you 21 working with Paramount, yes. 22 Q No, no, I'm not talking about 23 communications generally. Are you ever on any 24 e-mail in which Saveology requested ADT's express 25 written consent to use an affiliate?</p>



<p style="text-align: right;">Page 126</p> <p>1 A There could be.</p> <p>2 Q But you're not aware of any specific</p> <p>3 e-mail?</p> <p>4 A I don't recall a specific e-mail, right.</p> <p>5 MS. GOLDBERG: Okay. How about we take a</p> <p>6 lunch break?</p> <p>7 (Lunch recess.)</p> <p>8 BY MS. GOLDBERG:</p> <p>9 Q When did Saveology's relationship with</p> <p>10 Paramount end?</p> <p>11 A September, 2011.</p> <p>12 Q And how did it end?</p> <p>13 A They were terminated.</p> <p>14 Q Saveology terminated Paramount?</p> <p>15 A Yes.</p> <p>16 Q Okay. Can you tell me approximately how</p> <p>17 much money did Paramount make from Saveology over</p> <p>18 the course of the relationship?</p> <p>19 A That I don't know.</p> <p>20 Q Okay.</p> <p>21 MS. GOLDBERG: Let's mark this.</p> <p>22 (Plaintiff's Exhibit 16 was marked for</p> <p>23 identification.)</p> <p>24 BY MS. GOLDBERG:</p> <p>25 Q This document is entitled PMG Commissions.</p>	<p style="text-align: right;">Page 128</p> <p>1 working with Saveology at about September, 2011.</p> <p>2 And here I see that they were paid in October. I</p> <p>3 was just wondering, were they continuing to work in</p> <p>4 October or was it just the payment a few weeks after</p> <p>5 they stopped working?</p> <p>6 A The payment was a few weeks after they</p> <p>7 stopped working.</p> <p>8 Q Thanks. It says that they're paid to</p> <p>9 date, year to date payment is \$1,335,525 and change.</p> <p>10 Do you see that?</p> <p>11 A Correct, yes.</p> <p>12 Q Do you believe that's the correct amount</p> <p>13 of money?</p> <p>14 A Yes, according to this document, yes.</p> <p>15 Q Okay. And they were paid per install, is</p> <p>16 that correct?</p> <p>17 A By install, correct.</p> <p>18 Q Did the amount per install differ</p> <p>19 depending on which dealer bought it?</p> <p>20 A Yes, it did differ by package.</p> <p>21 Q Oh, by package, okay.</p> <p>22 A And by Beacon score.</p> <p>23 Q And Beacon score is a credit score?</p> <p>24 A Is a credit score.</p> <p>25 Q Let's go to Page 5. If you could just</p>
<p style="text-align: right;">Page 127</p> <p>1 Is PMG Paramount Media Group?</p> <p>2 A Yes.</p> <p>3 Q If you look at line 45, it has a date of</p> <p>4 10-14-11.</p> <p>5 A Uh-huh.</p> <p>6 Q And there's an amount paid. Was that the</p> <p>7 last date that Paramount sold ADT security systems</p> <p>8 for Saveology?</p> <p>9 A They were paid based on install date, so</p> <p>10 that wouldn't be a sale date. This is pay dates of</p> <p>11 installs for the prior week.</p> <p>12 Q So you're saying 10-14-11 is when the</p> <p>13 systems were installed?</p> <p>14 A Well, 10-14-11 appears to be, no, that's</p> <p>15 the pay date.</p> <p>16 Q Oh, that's when Saveology paid Paramount?</p> <p>17 A Correct. Yeah, if you look at number 4,</p> <p>18 it says pay date. Line number 4.</p> <p>19 Q Got it, right. So would this at all</p> <p>20 inform you as to when Paramount stopped working for</p> <p>21 Saveology or no?</p> <p>22 A Would it inform me when they stopped</p> <p>23 working? I'm not sure I understand exactly the</p> <p>24 question.</p> <p>25 Q Earlier, you said that Paramount stopped</p>	<p style="text-align: right;">Page 129</p> <p>1 walk me through, if you could just walk me through</p> <p>2 and explain what the comments are. Payment ID, is</p> <p>3 that an internal Saveology number?</p> <p>4 A Yes, from the system, from the data entry</p> <p>5 system.</p> <p>6 Q And the next column B, is that Paramount's</p> <p>7 number?</p> <p>8 A Yes, from their system to ours, yes.</p> <p>9 Q Okay. Sale date, I understand. Install</p> <p>10 date, customer, what is an MMR?</p> <p>11 A Monthly monitoring rate. That's the</p> <p>12 package.</p> <p>13 Q Got it. And what does amount stand for?</p> <p>14 A Amount? The amount of payment. The</p> <p>15 amount of -- yeah, 250, yeah.</p> <p>16 Q Okay. And status, paid in full, does that</p> <p>17 mean Saveology paid Paramount in full or the</p> <p>18 customer?</p> <p>19 A Correct, they were paid in full for that</p> <p>20 customer.</p> <p>21 Q Got you. And then if we could just flip</p> <p>22 back to Page 2. It says the 2010 total was</p> <p>23 \$32,452.50.</p> <p>24 A Okay.</p> <p>25 Q Does that seem correct to you?</p>

<p style="text-align: right;">Page 130</p> <p>1 A According to this document, yes.</p> <p>2 Q Did Paramount also earn bonuses from</p> <p>3 Saveology?</p> <p>4 A I don't know. I don't know if they</p> <p>5 particularly did. It's possible. I don't know if</p> <p>6 they did. If they referred somebody. I don't know.</p> <p>7 Q Who would know that?</p> <p>8 A I would have to see the payment files to</p> <p>9 see if they were one of the groups that did receive</p> <p>10 bonuses.</p> <p>11 Q So did certain affiliates who did ADT</p> <p>12 products get bonuses?</p> <p>13 A Yes.</p> <p>14 Q And how were those bonuses calculated?</p> <p>15 A Each one was different.</p> <p>16 Q How often would an affiliate receive a</p> <p>17 bonus?</p> <p>18 A As in weekly payments?</p> <p>19 Q Were the bonuses based on the number of</p> <p>20 installations?</p> <p>21 A Yes, because they were only paid on</p> <p>22 installs.</p> <p>23 Q Okay. And you don't know if Paramount</p> <p>24 received bonuses?</p> <p>25 A I don't know, I'd have to look. Did you</p>	<p style="text-align: right;">Page 132</p> <p>1 Q So their total number of installs for 2011</p> <p>2 were 2,972?</p> <p>3 A That they were paid on, yes.</p> <p>4 Q Okay. Does Elephant Group have similar</p> <p>5 documents that would show Paramount's sales?</p> <p>6 A Yes.</p> <p>7 Q Does Saveology's documents contain not</p> <p>8 just the consumer's name, but also the consumer's</p> <p>9 telephone number?</p> <p>10 A Yes.</p> <p>11 Q So for any particular sale, is it possible</p> <p>12 to trace back that sale to the original lead source?</p> <p>13 A Yes.</p> <p>14 Q Can you walk me through how you would do</p> <p>15 that?</p> <p>16 A Are we talking Paramount or Saveology?</p> <p>17 Q If Saveology wanted to determine where</p> <p>18 this sale came from, how would it do that?</p> <p>19 A To ask for the original opt in lead or if</p> <p>20 the consumer called in, then obviously the phone</p> <p>21 recording.</p> <p>22 Q So you have -- I'm just trying to</p> <p>23 understand what the document looks like. You have a</p> <p>24 document that has consumer's name and consumer phone</p> <p>25 number and that phone number you would be able to</p>
<p style="text-align: right;">Page 131</p> <p>1 want me to look?</p> <p>2 Q Oh, if it's in here, sure.</p> <p>3 A I don't know if it is. These all appear</p> <p>4 to be PMG, which is from their system to us.</p> <p>5 Q Well, this was produced by them.</p> <p>6 A Right, okay.</p> <p>7 Q Do you have any idea how many calls</p> <p>8 Paramount made over the course of the relationship</p> <p>9 between Paramount and Saveology?</p> <p>10 A No.</p> <p>11 Q Do you have any idea of what their</p> <p>12 percentage of closing on a sale was?</p> <p>13 A No.</p> <p>14 Q Meaning how many calls they made versus</p> <p>15 how many sales they actually closed?</p> <p>16 A No.</p> <p>17 Q And on Page 1 of this, is it correct that</p> <p>18 in year 2011, they made 2,990 installs?</p> <p>19 A Well, that's what they were paid on, but</p> <p>20 number of installs is lower, because they have 18</p> <p>21 chargebacks.</p> <p>22 Q Okay. Chargebacks means somebody changed</p> <p>23 their mind?</p> <p>24 A Yes, you have a three-day right of</p> <p>25 rescission as a consumer to have it uninstalled.</p>	<p style="text-align: right;">Page 133</p> <p>1 tell where you got that phone number from?</p> <p>2 A In Saveology, yes.</p> <p>3 Q And the phone number would tell you which</p> <p>4 affiliate it came from?</p> <p>5 A Which lead source it came from.</p> <p>6 Q And you would ask Paramount where did it</p> <p>7 obtain the lead from?</p> <p>8 A Right, correct.</p> <p>9 Q And they would give you what's called opt</p> <p>10 in information?</p> <p>11 A Yes, if it was an online, yes. If not, if</p> <p>12 it was a consumer calling in, they would give me the</p> <p>13 full recording.</p> <p>14 Q Okay. Do you know what percentage of</p> <p>15 Saveology's ADT sales were made by Paramount during</p> <p>16 the year 2011?</p> <p>17 A No.</p> <p>18 Q Do you have any idea how Paramount</p> <p>19 compared with the other ADT affiliates in numbers of</p> <p>20 sales?</p> <p>21 A In 2011?</p> <p>22 Q Yes.</p> <p>23 A No, I would have to research that.</p> <p>24 Q Okay. Which of your ADT affiliates made</p> <p>25 the most sales for Saveology?</p>

<p style="text-align: right;">Page 134</p> <p>1 A Over the course of my tenure?</p> <p>2 Q Yes.</p> <p>3 A The majority of the sales came from our</p> <p>4 own internal transfers. Which affiliate, I don't</p> <p>5 know, I'd have to research that.</p> <p>6 Q Okay. Generally speaking, how did you</p> <p>7 keep, how did Saveology keep track of Paramount's</p> <p>8 sales?</p> <p>9 A Through our systems.</p> <p>10 Q So when Paramount would enter a sale into</p> <p>11 the computer system, if you could walk me through</p> <p>12 that?</p> <p>13 A They would enter a sale on their side, on</p> <p>14 their version of the security tracks and then once</p> <p>15 they hit sell, that's a button, it would come over</p> <p>16 to our system. And then we had complete</p> <p>17 transparency to go see exactly what else was in</p> <p>18 their system.</p> <p>19 Q So you could see when they sold it, to who</p> <p>20 the customer they sold it to, that customer's phone</p> <p>21 number?</p> <p>22 A Yes.</p> <p>23 Q Would you also be able to see their opt</p> <p>24 in?</p> <p>25 A The lead source, no.</p>	<p style="text-align: right;">Page 136</p> <p>1 A Correct. And which dealer we sold it to.</p> <p>2 Q So different dealers would charge</p> <p>3 different amounts and different amounts depending on</p> <p>4 which package?</p> <p>5 A Correct, which was dictated by ADT.</p> <p>6 Q As a general proposition, is it correct</p> <p>7 that the more installations Saveology has, the more</p> <p>8 money it makes?</p> <p>9 A From whom? Well, yeah, the more volume.</p> <p>10 Q Right. I guess that was obvious. Do you</p> <p>11 keep copies of the records that contain customer</p> <p>12 names and customer phone number and entity?</p> <p>13 A Do I? Our systems do, yes.</p> <p>14 Q It does?</p> <p>15 A Yes.</p> <p>16 Q Do you have any idea how long it keeps</p> <p>17 those records for?</p> <p>18 A Whatever we're required by law.</p> <p>19 Q And would you run commission payments to</p> <p>20 Paramount on a weekly basis?</p> <p>21 A Yes. 10-7, that's what this is.</p> <p>22 Q Okay. When did you first encounter the</p> <p>23 name EMI?</p> <p>24 A When, I don't know what document it is,</p> <p>25 but when it was produced to us to Robin Feinglas, to</p>
<p style="text-align: right;">Page 135</p> <p>1 Q If you asked them for this, they could get</p> <p>2 it for you?</p> <p>3 A Correct.</p> <p>4 Q Okay. I think you testified earlier that</p> <p>5 Saveology then sells these to dealers, authorized</p> <p>6 dealers?</p> <p>7 A Yes.</p> <p>8 Q Does ADT pay Saveology anything?</p> <p>9 A ADT dealers. They facilitate the payment.</p> <p>10 ADT does.</p> <p>11 Q ADT facilitates the payment from the</p> <p>12 authorized dealer to Saveology, correct?</p> <p>13 A Correct.</p> <p>14 Q How much money did Saveology earn from the</p> <p>15 sales booked by Paramount?</p> <p>16 A Oh, I don't know.</p> <p>17 Q Any estimate?</p> <p>18 A I'd have to -- no, I'd have to -- because</p> <p>19 I would have to go by each MMR, we were paid</p> <p>20 differently by all dealers, so they were Class A, B,</p> <p>21 C, D, each one paid us differently on each package.</p> <p>22 So I could not make a guesstimate right now.</p> <p>23 Q Okay. So are you paid on -- you're not</p> <p>24 just paid on the install, you're paid on the install</p> <p>25 based on what the monthly rate is?</p>	<p style="text-align: right;">Page 137</p> <p>1 Saveology.</p> <p>2 MS. GOLDBERG: Let's mark this.</p> <p>3 (Plaintiff's Exhibit 17 was marked for</p> <p>4 identification.)</p> <p>5 THE WITNESS: Okay.</p> <p>6 BY MS. GOLDBERG:</p> <p>7 Q Robin asked you, have you ever heard of</p> <p>8 EMI and you say, I don't know who that is, ask Reid,</p> <p>9 he's the one that set up all of these guys with</p> <p>10 leads. Who are you referring to when you say these</p> <p>11 guys?</p> <p>12 A Well, because in the e-mail, they're</p> <p>13 talking about Visor, Jim Landon, that's what we were</p> <p>14 talking about here. When we set up these guys.</p> <p>15 Q Who is Jim Landon?</p> <p>16 A Jim Landon, he is from Visor, which is a</p> <p>17 new one from Visor. It says it in the e-mail. I</p> <p>18 don't know who he is specifically.</p> <p>19 Q Who is Visor?</p> <p>20 A Visor is an affiliate.</p> <p>21 Q Is it an affiliate that sold ADT products?</p> <p>22 A Visor, yes.</p> <p>23 Q So he is the one that set up all of these</p> <p>24 guys with leads. Is all of these guys referring to</p> <p>25 ADT affiliates?</p>

<p style="text-align: right;">Page 138</p> <p>1 A Not -- not all ADT affiliates. I'm sorry,  2 ask me the question again.  3 Q I'm just not sure. Who is these guys  4 referring to?  5 A Because at this time, this would be Reid  6 and Jeremy at this time in this e-mail, this  7 August 16th e-mail.  8 Q Okay. Does --  9 A That would be these affiliates, these  10 guys.  11 Q Which affiliates are you referring to?  12 You mentioned Visor. Who else?  13 A Who you're reading right here in the  14 e-mail. We're referring to this e-mail.  15 Q So it Paramount and Savilo and Visor?  16 A Oh, then there's Savilo. Savilo, if you  17 look, it says Savilo was started back in 2000 -- it  18 was just Savilo was started last year.  19 Q Right. But the preceding e-mails refer to  20 Savilo, Paramount and Visor. Is that who you were  21 referring to when you said these guys?  22 A It appears so.  23 Q And what does that mean that Reid set up  24 with leads, how did he obtain leads for them?  25 A Well, we had a few different types. We</p>	<p style="text-align: right;">Page 140</p> <p>1 Paramount/EMI relationship?  2 A That there was none. There was not a  3 relationship with them. Ryan, we even asked if he  4 had a relationship with EMI, to which he told us no.  5 Q Who asked Ryan?  6 A We did.  7 Q Who did?  8 A Saveology.  9 Q Do you know who at Saveology?  10 A Probably Robin Feinglas. I'm sure I did  11 at some point, after we were served this lawsuit.  12 Q And what did Ryan say?  13 A There's an e-mail detailing exactly what  14 he said, that he was not working with them for us.  15 I think there's a few reiterations going back and  16 forth.  17 Q But he was working with EMI for other  18 relationships?  19 A For another home security, correct.  20 Q Was it your understanding that EMI was not  21 in compliance with the telemarketing laws?  22 MR. PISANI: Objection, calls for  23 speculation.  24 MS. GOLDBERG: You can go ahead and  25 answer.</p>
<p style="text-align: right;">Page 139</p> <p>1 have internal, our own internal leads.  2 Q Okay.  3 A That we have from opt in data as well.  4 Q What other types?  5 A At the time, who else was this, the survey  6 leads were on the end of a, I'm sorry, I'm recalling  7 in my brain. The survey leads were on another  8 product as I talked to you before about the warm  9 transfer. There was a survey, I want to say it was  10 some sort of medical survey and somewhere along the  11 way in there would be an offer for, a home security  12 offer. That's what the survey is.  13 Q Any other leads that this refers to?  14 A I don't know.  15 Q Okay.  16 A Could, I don't know.  17 Q Okay. When you first heard the name EMI,  18 did you do any investigation to determine who that  19 was?  20 A EMI, somewhere along the way I heard that  21 they were some type of voice broadcaster. We have  22 conversations internally and through other leads, so  23 it was somebody that I would never have touched,  24 EMI. There's a couple of them.  25 Q What was your understanding of the</p>	<p style="text-align: right;">Page 141</p> <p>1 THE WITNESS: That wasn't my job to know  2 what they were doing. It was voice  3 broadcasting, which is prerecorded messages,  4 which is no. No for us.  5 BY MS. GOLDBERG:  6 Q Meaning you would not use EMI because you  7 were aware that it was voice broadcasting?  8 A That they were involved in prerecorded  9 messages, correct.  10 Q Did anyone at Saveology consider  11 terminating Paramount at this point knowing that  12 Paramount had a relationship with EMI?  13 A When we were served this paperwork, that's  14 when they were terminated. When we found out about  15 the -- it was September, I think we were served  16 August 28th, September they were terminated.  17 Q Did Paramount terminate EMI or did  18 Saveology terminate EMI?  19 A Wait, go back. We never terminated EMI,  20 because we don't have any relationship with EMI.  21 Let me make that clear.  22 Q Did Saveology say anything to Paramount  23 that it should terminate EMI?  24 A We were not aware of them working with EMI  25 until this lawsuit came out and if you look at some</p>

<p style="text-align: right;">Page 142</p> <p>1 of the documents, they had terminated EMI well  2 before I guess once they discovered what they did.  3 Q Previously, you said they were aware that  4 Paramount worked with EMI in a different  5 relationship.  6 A Through this lawsuit.  7 Q So that was not when you first learned?  8 A Correct. When we were given insertion  9 orders. We were given the information from you guys  10 or from someone, I should say, I shouldn't say you  11 guys.  12 Q I just want to go back to make sure I  13 understood your previous testimony. Earlier, you  14 said you called Ryan and asked do you have a  15 relationship with EMI and he said I don't use EMI  16 for Saveology, but I have a relationship with them  17 for another?  18 A I didn't state that. Say that again. I  19 didn't say that I had a previous conversation with  20 Ryan that he worked with EMI. This was all through  21 this paperwork that we discovered that he worked  22 with EMI.  23 Q Okay. So you had never heard of EMI prior  24 to August, 2011?  25 A Through Paramount, no. Well, whatever</p>	<p style="text-align: right;">Page 144</p> <p>1 A Through the insertion orders.  2 Q Okay. Just based on the dates on those  3 orders?  4 A Correct.  5 Q Okay.  6 (Plaintiff's Exhibit 18 was marked for  7 identification.)  8 BY MS. GOLDBERG:  9 Q If you look at the second and third page,  10 are these the insertion orders you were referring to  11 earlier?  12 A Just referring to, yes.  13 Q And when did you first see these?  14 A I'm cc'd on this e-mail, so I would assume  15 around August 25th of that time.  16 Q Okay. Did you ever see any documentation  17 in which EMI certified that it was compliant with  18 the telemarketing laws?  19 A No.  20 Q Did Saveology have any agreement with EMI?  21 A No.  22 Q Did Saveology ever speak to EMI?  23 A As a company, I couldn't answer. Did I  24 for home security? No.  25 Q Did Saveology ever obtain any assurances</p>
<p style="text-align: right;">Page 143</p> <p>1 these dates are, yeah. We knew about EMI and  2 Paramount through these papers.  3 Q These papers meaning --  4 A That whatever these e-mails are, I'm  5 sorry.  6 Q Robin had asked Ryan, When did you start  7 working with EMI? He first said March, then he said  8 it was May. Ryan answers here, Per my IT, we  9 started on 2-14. But then Robin says, I have a  10 bunch of IOs that he signed with EMI on 11-10, 1-11,  11 2-11, et cetera. Were you ever able to determine  12 exactly when Paramount worked with EMI?  13 A Was I able to determine?  14 Q Was Saveology able to determine?  15 A I'm sure the lawyers did based off these  16 IOs. That's not for me to determine.  17 Q Well, does Saveology believe that  18 Paramount was working with EMI as early as November,  19 2010 or that that relationship started in 2011?  20 MR. PISANI: Objection, form of the  21 question.  22 THE WITNESS: Could you repeat that?  23 BY MS. GOLDBERG:  24 Q Could you identify what period of time  25 Paramount was working with EMI?</p>	<p style="text-align: right;">Page 145</p> <p>1 from anyone that EMI did not do robo calling?  2 A No.  3 Q Who is Savilo?  4 A An affiliate. A partner company.  5 Q Who did you deal with primarily at Savilo?  6 A Mike Jones.  7 Q Was there a fellow Eric Oakley that you  8 dealt with as well?  9 A Eric Oakley. Yeah. Mike Jones and Eric  10 Oakley and Steve Sansbury.  11 Q Did Saveology obtain ADT's consent to  12 contract with Savilo?  13 A Once we were given all the questionnaires  14 in writing, yes. Verbally, ADT was well aware of  15 our relationship with Savilo.  16 Q What makes you say that?  17 A There's numerous e-mails back and forth  18 from their compliance department.  19 Q What period of time are you referring to?  20 A They were prior to Paramount -- I don't  21 know the exact dates.  22 Q Was it before or after the Desai  23 litigation was filed, do you know?  24 A That what was?  25 Q That there were e-mails between, with ADT</p>



<p style="text-align: right;">Page 146</p> <p>1 concerning Savilo.</p> <p>2 A Oh, I don't know.</p> <p>3 Q Are you aware of any telemarketing</p> <p>4 violations by Savilo?</p> <p>5 A As a company?</p> <p>6 Q Uh-huh.</p> <p>7 A As Savilo as a company? I don't know.</p> <p>8 Q Well, you were responsible for that</p> <p>9 relationship, correct?</p> <p>10 A Correct.</p> <p>11 Q And you're also responsible for</p> <p>12 compliance, correct?</p> <p>13 A Correct.</p> <p>14 Q So were you aware of any violations during</p> <p>15 your tenure as director of operations?</p> <p>16 A Violations of what?</p> <p>17 Q By Savilo.</p> <p>18 A From who?</p> <p>19 Q Violations by Savilo of the telemarketing</p> <p>20 laws.</p> <p>21 A I'm not sure. I don't -- I don't recall.</p> <p>22 That was a while ago. If there were any violations,</p> <p>23 they would have been termed.</p> <p>24 Q They would have been what?</p> <p>25 A Terminated.</p>	<p style="text-align: right;">Page 148</p> <p>1 Q So did you ultimately get a writing from</p> <p>2 Savilo saying that it does not reach out to</p> <p>3 customers on Saveology's behalf with any type of</p> <p>4 prerecorded messages?</p> <p>5 A I'm sure.</p> <p>6 Q Do you know in what form that documents</p> <p>7 exists, was it an e-mail to you?</p> <p>8 A I would say yes. I would say yes. I'm</p> <p>9 sure Savilo replied to this and said no, we don't</p> <p>10 use prerecorded messages.</p> <p>11 Q When you say you're sure, is that because</p> <p>12 you believe what happened or do you have in mind a</p> <p>13 specific document?</p> <p>14 A I've made it very clear to all we work</p> <p>15 with that there's no prerecorded messages, to have</p> <p>16 them acknowledge, that's something I would have</p> <p>17 pushed.</p> <p>18 Q Do you recall a specific document in</p> <p>19 writing where Savilo says that?</p> <p>20 A No, I don't recall a specific date and</p> <p>21 time.</p> <p>22 Q At the very top of the e-mail, that first</p> <p>23 paragraph --</p> <p>24 A Uh-huh.</p> <p>25 Q -- let me go back for a minute. You said</p>
<p style="text-align: right;">Page 147</p> <p>1 Q Terminated?</p> <p>2 A Terminated by us if I was aware.</p> <p>3 MS. GOLDBERG: Let's mark another exhibit.</p> <p>4 (Plaintiff's Exhibit 19 was marked for</p> <p>5 identification.)</p> <p>6 BY MS. GOLDBERG:</p> <p>7 Q On Page 2, the bottom of your e-mail, you</p> <p>8 asked the folks at Savilo to confirm in writing by</p> <p>9 replying to this e-mail that Savilo Support Services</p> <p>10 does not in any way, shape or form reach out to</p> <p>11 customers on Saveology's behalf with any type of</p> <p>12 prerecorded messages so we can keep on file.</p> <p>13 A Correct.</p> <p>14 Q Did you ever get the e-mail that you</p> <p>15 requested from Savilo stating that it does not reach</p> <p>16 out to customers with prerecorded messages?</p> <p>17 A I'm sure.</p> <p>18 Q Why are you sure? Because the response</p> <p>19 from Mike Jones does not provide any assurance, in</p> <p>20 fact, it says we will pay the money if we have to</p> <p>21 just to make it go away.</p> <p>22 A I'm sure because it's my duty to make sure</p> <p>23 anyone that's working on our behalf with ADT does</p> <p>24 not have anything prerecorded messages whatsoever to</p> <p>25 have in writing.</p>	<p style="text-align: right;">Page 149</p> <p>1 that you feel confident that you would have obtained</p> <p>2 a response from Savilo?</p> <p>3 A Yes.</p> <p>4 Q Do you know if you produced that response?</p> <p>5 A I don't know what the attorneys produced.</p> <p>6 Q Would you have produced it if you had it?</p> <p>7 A Sure, if it was in my e-mails.</p> <p>8 Q Okay. The first paragraph of your e-mail</p> <p>9 at the top of this page, is it your understanding</p> <p>10 that Savilo had robo called this person?</p> <p>11 A No, the securities solutions person</p> <p>12 answered. This is saying a security solutions</p> <p>13 person answered. That is when the guy pressed 1 to</p> <p>14 go ahead and speak to one of our agents. It was a</p> <p>15 reaffirmation that he wasn't interested.</p> <p>16 Q You say, The consumer is not calling them,</p> <p>17 ugh.</p> <p>18 A Yeah, that I don't know.</p> <p>19 Q Why did you say ugh?</p> <p>20 A That I don't know. You're asking me</p> <p>21 something from 2011.</p> <p>22 Q I understand. I'm reading this. It seems</p> <p>23 to me that this was not an inbound call because you</p> <p>24 said the consumer is not calling them, which tells</p> <p>25 me the dialer called this person. So is it your</p>



<p style="text-align: right;">Page 150</p> <p>1 understanding that Savilo had made a robo call to 2 this complainant? 3 MR. PISANI: I'm going to object to the 4 form of the question as to what it's telling, 5 counsel. 6 MS. GOLDBERG: You can answer. 7 THE WITNESS: Well, again, the dialer does 8 not mean a prerecorded message. A dialer's 9 mechanism is used to call phone numbers where a 10 live agent then answers the phone. 11 BY MS. GOLDBERG: 12 Q I understand, but reading the entire first 13 paragraph together, is it your testimony that Savilo 14 had not sent a robo call? 15 MR. PISANI: Objection, calls for 16 speculation. 17 THE WITNESS: Yeah, I would have to -- 18 there's going to be more information here. I 19 would have to go research this. I'm here to 20 talk about Paramount, not so much Savilo. 21 BY MS. GOLDBERG: 22 Q But you are responsible for the Savilo 23 relationship as well, correct? 24 A Right, but I was not prepared to speak on 25 this.</p>	<p style="text-align: right;">Page 152</p> <p>1 A Going back to here, that I wanted in 2 writing that they are not using any type of 3 prerecorded messages at all. 4 Q And then you said you did an audit? 5 A I would have followed up on this, yes. 6 Q Explain what you did in the audit. 7 A When you say audit, for me to be able to 8 do, listen to their calls and then also provide me 9 opt ins as to where they're getting these, some of 10 their, every time that Savilo transferred over a 11 call, the phone number and the person's contact 12 information came into our system. 13 Q And after you did this audit, were you 14 able to conclude that Savilo was operating in 15 compliance with the telemarketing laws? 16 A With what we gave them that they could not 17 do prerecorded messages. If they were found doing 18 prerecorded messages, they would be termed. 19 Q So you felt satisfied that they weren't 20 doing prerecorded messages? 21 A With the information they provided me 22 with. 23 MS. GOLDBERG: Let's go ahead and mark 24 another one. 25 (Plaintiff's Exhibit 20 was marked for</p>
<p style="text-align: right;">Page 151</p> <p>1 Q How did Saveology respond to this 2 incident? 3 A I don't know. Do you have the e-mail? 4 There would be an e-mail of how we responded to ADT. 5 I don't know that off the top of my head. 6 Q I don't know, either. 7 A Okay. 8 Q This is what I have. Let me ask you about 9 the second paragraph in your e-mail. Is it your 10 understanding that Saveology's representative was 11 not providing accurate information about ADT? 12 A Correct. 13 Q After receiving this e-mail and responding 14 to it, did you take any steps to assure that Savilo 15 was not doing robo calls? 16 A Yes, I'm sure there was verbal 17 communication and I did the same thing with them, 18 audited their calls as well. And their calls came, 19 they were all transferred directly to our call 20 center. 21 Q So I'm saying following this, you said 22 there was verbal communication, was that by you to 23 Mike Jones? 24 A Yes. I'm sure myself or -- 25 Q And what was the substance of that?</p>	<p style="text-align: right;">Page 153</p> <p>1 identification.) 2 BY MS. GOLDBERG: 3 Q On the bottom of Page 1, this is another 4 incident in which you said to Savilo, Please confirm 5 that you did not do any robo dial, no automated 6 messages were left as stated below. 7 A Okay. 8 Q You then follow up and say, Savilo, I have 9 not heard a response. 10 A Okay. 11 Q That was about four days after your 12 initial request. Did you ever get a response from 13 Savilo confirming that it did not do robo dialing? 14 A I'm sure. 15 Q And do you have any specific document in 16 mind or are you just guessing? 17 A Please provide me the recording from start 18 to finish so they would know that this is not robo 19 dialed. 20 Q Did Savilo provide you with that 21 recording? 22 A They would have had to if this was closed. 23 I don't know what date this is. Do you have the 24 e-mails beyond this? 25 Q This is what I have. But the subject line</p>

<p style="text-align: right;">Page 154</p> <p>1 says DNC Robert Braver?</p> <p>2 A Okay.</p> <p>3 Q Did Savilo ultimately reach a settlement</p> <p>4 with Robert Braver?</p> <p>5 A Oh, I don't know. I don't know. It's</p> <p>6 possible.</p> <p>7 Q Are you aware of Savilo reaching a</p> <p>8 settlement with any customer?</p> <p>9 A I believe that there is, there's</p> <p>10 something, yes, that they did.</p> <p>11 Q Why would Savilo have settled with a</p> <p>12 customer?</p> <p>13 MR. PISANI: Objection, calls for</p> <p>14 speculation.</p> <p>15 BY MS. GOLDBERG:</p> <p>16 Q This is a different complainant. This is</p> <p>17 about a man named Robert Martino who complained.</p> <p>18 ADT asks Robin and you, The consumer has advised ADT</p> <p>19 that Savilo has settled with him. Please help us</p> <p>20 understand what the basis for settlement was, if</p> <p>21 there was a valid opt in and a prerecorded message</p> <p>22 was not used to initiate contact with the consumer.</p> <p>23 A Okay.</p> <p>24 Q Do you recall whether you responded to</p> <p>25 ADT?</p>	<p style="text-align: right;">Page 156</p> <p>1 data.</p> <p>2 Q I'm sorry, I don't understand. What data</p> <p>3 are you referring to?</p> <p>4 A If they have data, if they have opt in</p> <p>5 data and that's what this is, stop using that data,</p> <p>6 because if it's generating complaints, stop using</p> <p>7 it.</p> <p>8 Q Stop using the data?</p> <p>9 A Correct.</p> <p>10 Q Or stop using that opt in source?</p> <p>11 A Stop using the data which would come from</p> <p>12 an opt in online. Everything that Savilo has done</p> <p>13 is all online opt in data.</p> <p>14 Q I'm not sure I understand. What are you</p> <p>15 asking Savilo to stop doing when you say stop the</p> <p>16 data, do you mean --</p> <p>17 A Stop using that data. Stop using that</p> <p>18 data. They use various websites.</p> <p>19 Q So stop using those websites?</p> <p>20 A Right, stop using those leads, correct.</p> <p>21 Stop using that data. That data's generating</p> <p>22 complaints, stop using it. There's no reference in</p> <p>23 there to a prerecorded message.</p> <p>24 Q Do you know if Savilo stopped using the</p> <p>25 data as you requested?</p>
<p style="text-align: right;">Page 155</p> <p>1 A I'm sure we did. We respond to everything</p> <p>2 ADT has. Where are the responses, I don't know.</p> <p>3 Q Do you recall what the response was?</p> <p>4 A No. I don't remember the specifics.</p> <p>5 Q Do you recall why Savilo settled with</p> <p>6 Robert Martino?</p> <p>7 MR. PISANI: Objection, asked and</p> <p>8 answered. Calls for speculation.</p> <p>9 MS. GOLDBERG: You can answer.</p> <p>10 THE WITNESS: I don't know.</p> <p>11 (Plaintiff's Exhibit 21 was marked for</p> <p>12 identification.)</p> <p>13 BY MS. GOLDBERG:</p> <p>14 Q You write to Mike Jones of Savilo, I just</p> <p>15 received another large one and this person has been</p> <p>16 on the ADT DNC since July and you just sent this to</p> <p>17 us this week. The son is now filing a lawsuit.</p> <p>18 He's the one that stopped the installer as his mom</p> <p>19 has dementia. I hoped you stopped that data as we</p> <p>20 requested a few days ago. This must stop.</p> <p>21 A Okay.</p> <p>22 Q What do you mean when you say that data,</p> <p>23 what data?</p> <p>24 A Whatever data they were using at that</p> <p>25 time, obviously if it was bringing up this, stop the</p>	<p style="text-align: right;">Page 157</p> <p>1 A I don't know where the response is, but</p> <p>2 usually if we had told them to stop, yes, they would</p> <p>3 stop.</p> <p>4 MS. GOLDBERG: Let's look at one more.</p> <p>5 24.</p> <p>6 (Plaintiff's Exhibit 22 was marked for</p> <p>7 identification.)</p> <p>8 BY MS. GOLDBERG:</p> <p>9 Q You say to Mike Jones, He actually has the</p> <p>10 recording of your prerecorded message and the</p> <p>11 transcript so I really need all the calls made to</p> <p>12 this consumer to prove that you did not call him</p> <p>13 with a prerecorded message and then transfer him to</p> <p>14 us.</p> <p>15 A Correct.</p> <p>16 Q Did you ever obtain a recording of the</p> <p>17 call?</p> <p>18 A I'm sure we did.</p> <p>19 Q And was it a prerecorded message?</p> <p>20 A I'm sure it would not be.</p> <p>21 Q Why are you sure?</p> <p>22 A Because this is Jay Connor. You can</p> <p>23 simply Google his name. He has sued everybody and</p> <p>24 anybody out there. He's a professional.</p> <p>25 Q Did Savilo settle with him?</p>

<p style="text-align: right;">Page 158</p> <p>1 A I don't know. I don't know.</p> <p>2 Q I understand that he may sue a lot of</p> <p>3 people.</p> <p>4 A It's possible.</p> <p>5 Q And I have not seen his name, but my</p> <p>6 question is do you know if he received a prerecorded</p> <p>7 message?</p> <p>8 A To my knowledge, no. Because that's what</p> <p>9 I asked him, Could you please provide the calls to</p> <p>10 show that you did not use a prerecorded message to</p> <p>11 contact him.</p> <p>12 Q And did you listen to that call?</p> <p>13 A I'm sure I did.</p> <p>14 Q Because that generally would have what you</p> <p>15 would have done?</p> <p>16 A That would have been the protocol, yes.</p> <p>17 Q But you don't specifically remember that</p> <p>18 call?</p> <p>19 A Like I said, Jay Connor, his name is well</p> <p>20 known.</p> <p>21 Q I just want to understand, do you remember</p> <p>22 that call at all?</p> <p>23 A Do I remember the details of the call?</p> <p>24 No.</p> <p>25 Q Do you remember if it was prerecorded or</p>	<p style="text-align: right;">Page 160</p> <p>1 A Eventually, they were terminated.</p> <p>2 Q Saveology terminated Savilo?</p> <p>3 A We would have sent the request to</p> <p>4 terminate, yes.</p> <p>5 Q Do you know when that was?</p> <p>6 A Not off the top of my head, no. Again, I</p> <p>7 wasn't prepared to speak on that, just to Paramount.</p> <p>8 Q Did Saveology make any structural changes</p> <p>9 to its compliance program in response to the</p> <p>10 complaints against Savilo?</p> <p>11 A More specific?</p> <p>12 Q Did you change your compliance program or</p> <p>13 make any modifications to the program in response to</p> <p>14 all of the complaints against Savilo?</p> <p>15 A No. We make modifications to our program.</p> <p>16 The rules are set forth, no prerecorded messages,</p> <p>17 you must call opt in data. I'm not really sure what</p> <p>18 you're asking me there.</p> <p>19 Q Let me rephrase it. Did Saveology change</p> <p>20 the way it monitors affiliates after receiving</p> <p>21 numerous complaints about Savilo?</p> <p>22 A I don't know if it was after, during, I</p> <p>23 mean, we've always monitored them. I'm not sure,</p> <p>24 I'm really not sure what you're asking.</p> <p>25 MS. GOLDBERG: I'm going to take five</p>
<p style="text-align: right;">Page 159</p> <p>1 not?</p> <p>2 A I would make an assumption that it was</p> <p>3 not.</p> <p>4 Q But that's an assumption?</p> <p>5 A Because we did not sanction that.</p> <p>6 Q Was there ever a time that Saveology did</p> <p>7 anything to discipline Savilo?</p> <p>8 A There was constant communication of what</p> <p>9 the guidelines are and what our agreement is and</p> <p>10 based off the calls that he had said to me, I did</p> <p>11 not hear prerecorded messages.</p> <p>12 Q And after doing an audit, was that also</p> <p>13 your conclusion?</p> <p>14 A Right. If I don't hear prerecorded</p> <p>15 messages, I'm not sure how you want me to discipline</p> <p>16 someone.</p> <p>17 Q I'm just asking what happened. Given the</p> <p>18 numerous complaints, why did Saveology continue to</p> <p>19 do business with Savilo?</p> <p>20 A Because every time we had a complaint, the</p> <p>21 opt in would prove that that person opted in on a</p> <p>22 site, that it was scrubbed and that it wasn't a</p> <p>23 prerecorded message.</p> <p>24 Q Did anyone at Saveology ever discuss</p> <p>25 whether we should terminate Savilo or not?</p>	<p style="text-align: right;">Page 161</p> <p>1 minutes just to look through my notes. We can</p> <p>2 go off.</p> <p>3 (Brief recess.)</p> <p>4 (Plaintiff's Exhibits 23, 24 &amp; 25 were</p> <p>5 marked for identification.)</p> <p>6 BY MS. GOLDBERG:</p> <p>7 Q In this e-mail, you ask Paramount, you</p> <p>8 say, I need all of your caller IDs, "you" PMG used</p> <p>9 and that includes your affiliates and lead</p> <p>10 providers. So is it correct to say that Saveology</p> <p>11 was aware that PMG was using other entities to make</p> <p>12 phone calls?</p> <p>13 A Was it clear you, PMG? Was it clear that</p> <p>14 they were using other --</p> <p>15 Q Entities to make phone calls.</p> <p>16 A Yeah, he had another, I don't know, to be</p> <p>17 honest with you. No, I don't know.</p> <p>18 Q Well --</p> <p>19 A You, it's just give me all of your CIDs.</p> <p>20 Q But you say you, And that includes your</p> <p>21 affiliates, correct?</p> <p>22 A Okay, that's what the e-mail says.</p> <p>23 Q That's what the e-mail says. So was it</p> <p>24 Saveology's understanding that Paramount was using</p> <p>25 other entities to make phone calls on its behalf?</p>

<p style="text-align: right;">Page 162</p> <p>1 A I don't know, this was just a generic give 2 me all your CIDs. 3 Q Well, I don't think this is generic. You 4 later say, This is a robo dialer and is a major 5 complaint with ADT right now. 6 A Right. But if you read the sentence right 7 before, it's also calling me and this sends me to 8 somebody other than PMG. 9 Q Right. So my question is Saveology 10 understood then that somebody other than PMG was 11 making calls on behalf of PMG, correct? 12 MR. PISANI: Objection, form of the 13 question. 14 THE WITNESS: Could you rephrase that? 15 MS. GOLDBERG: Sure. 16 BY MS. GOLDBERG: 17 Q Did Saveology understand through this 18 e-mail that Paramount was using other entities to 19 make phone calls to consumers? 20 A Did Paramount -- did Paramount use 21 somebody else? 22 Q Well, isn't that what you're asking, to 23 give me the caller IDs from you and the entities 24 that make calls on your behalf, isn't that what 25 you're asking?</p>	<p style="text-align: right;">Page 164</p> <p>1 clear in what Paramount had. 2 BY MS. GOLDBERG: 3 Q Right. But my question is did Saveology 4 do anything to ensure that the entities who are 5 calling on Paramount's behalf were aware of the ADT 6 guidelines? 7 A Again, Paramount used another company to 8 my knowledge that was calling on something other 9 than home security, so for them to abide by the 10 guidelines, it's an upsell and then they transfer it 11 to PMG. 12 Q But you're asking for all of the caller 13 IDs for Paramount and its affiliates, correct? 14 A Correct. 15 Q Now, if its affiliates are not calling for 16 home security, why are you asking for their caller 17 IDs? 18 A To have them on file. 19 Q Even if they're not doing home security 20 sales? 21 A I want all the caller IDs. Do I need a 22 reason why? 23 Q Well, you just said to me if it's not 24 related to home security, why would I want it, so 25 I'm asking you, why did you then ask for the caller</p>
<p style="text-align: right;">Page 163</p> <p>1 A That's what it's saying. Remember, I told 2 you, there's a warm transfer process at the end of a 3 call of selling something else if they wanted to 4 send over a lead, so yes, there could have been, but 5 it wasn't on behalf of home security or ADT. 6 Q Well, did Saveology ask Paramount to send 7 the ADT guidelines to whom else was making phone 8 calls for Paramount? 9 MR. PISANI: Objection, form of the 10 question. 11 THE WITNESS: I don't get -- I don't 12 understand. 13 BY MS. GOLDBERG: 14 Q In this e-mail, you communicate that you 15 understand that Paramount's making calls and its 16 affiliates are also making calls, right, you're 17 asking for Paramount's caller IDs and its affiliates 18 caller IDs, so my question is did you ask Paramount 19 to make sure that those calling on its behalf were 20 aware of the ADT telemarketing guidelines? 21 MR. PISANI: I'm just objecting to the 22 form of the question and counsel's description 23 of what the e-mail says. But you can answer 24 over the objection. 25 THE WITNESS: The guidelines are very</p>	<p style="text-align: right;">Page 165</p> <p>1 ID? 2 A That's what the e-mail says. I don't know 3 how else you want me to answer that question. 4 Q Did you discuss this e-mail with anyone 5 else at Saveology? 6 A Oh, I don't know. I don't know, Robin 7 Feinglas is cc'd on this, so she would be aware of 8 this. 9 Q Did anyone at Saveology do any due 10 diligence on the other entities that were calling on 11 Paramount's behalf? 12 A If they were calling out specifically to a 13 home security ADT Saveology, we would have of 14 course, but this, again, I'm asking for all the CIDs 15 that you use. 16 Q And why were you asking for the caller 17 IDs? 18 A I think I already answered that. That's 19 just what this e-mail says. 20 Q Right, but why were you asking them for 21 caller IDs? 22 A I don't remember the specifics at that 23 particular time. Why not have them? 24 Q Is it because ADT's legal department had 25 asked for that?</p>

<p style="text-align: right;">Page 166</p> <p>1 A For all caller IDs?</p> <p>2 Q Uh-huh.</p> <p>3 A Yes, ADT had asked for that.</p> <p>4 Q Why would ADT ask for all caller IDs that</p> <p>5 didn't relate to ADT products?</p> <p>6 MR. PISANI: I will object, calls for</p> <p>7 speculation as to why ADT would do something.</p> <p>8 BY MS. GOLDBERG:</p> <p>9 Q In your request to Paramount, were you</p> <p>10 trying to get caller IDs for Paramount and its</p> <p>11 affiliates for home security?</p> <p>12 A Again, the guidelines are very strict. If</p> <p>13 there's anything that they're using on our behalf,</p> <p>14 to provide that with me.</p> <p>15 Q I understand. But that doesn't answer my</p> <p>16 question.</p> <p>17 A I don't know. At the time of this e-mail,</p> <p>18 I don't know. I don't know how to answer that.</p> <p>19 Q Okay.</p> <p>20 MS. GOLDBERG: Let's mark this one 26.</p> <p>21 (Plaintiff's Exhibit 26 was marked for</p> <p>22 identification.)</p> <p>23 BY MS. GOLDBERG:</p> <p>24 Q At the bottom of the e-mail, you request</p> <p>25 Paramount, Do you have any affiliation with Direct</p>	<p style="text-align: right;">Page 168</p> <p>1 Q Saveology did not have an affiliation with</p> <p>2 those?</p> <p>3 A No.</p> <p>4 Q Did you do any investigation of Direct</p> <p>5 Savings USA or Leads Direct Marketing?</p> <p>6 A Did I do any investigation? Internally,</p> <p>7 we checked all of our databases, all of our partner</p> <p>8 companies to see if we had any affiliation with</p> <p>9 these guys, the Saveology Network.</p> <p>10 Q Other than ask Ryan and Chris if they had</p> <p>11 an affiliation, did Saveology do anything on its own</p> <p>12 to determine if there was an affiliation between</p> <p>13 Paramount and these companies?</p> <p>14 A I don't know.</p> <p>15 MS. GOLDBERG: We will do one more.</p> <p>16 Actually, two more.</p> <p>17 (Plaintiff's Exhibits 27 &amp; 28 were marked</p> <p>18 for identification.)</p> <p>19 BY MS. GOLDBERG:</p> <p>20 Q In this e-mail to Paramount, you say, I'm</p> <p>21 sure this is a sub affiliate of one of my</p> <p>22 affiliates. I've sent this to all of my leads</p> <p>23 partners, so as of right now, I don't know who's</p> <p>24 calling these numbers.</p> <p>25 A Okay.</p>
<p style="text-align: right;">Page 167</p> <p>1 Savings USA or Leads Direct Marketing? Again, if</p> <p>2 ever had any affiliation with those two companies,</p> <p>3 please let me know either way.</p> <p>4 A Okay.</p> <p>5 Q Did Paramount respond to your question?</p> <p>6 A I'm sure they did.</p> <p>7 Q Did it have an affiliation with Direct</p> <p>8 Savings USA or Leads Direct Marketing?</p> <p>9 A I don't remember.</p> <p>10 Q Did Saveology do anything to investigate</p> <p>11 whether it had a relationship with Direct Savings</p> <p>12 USA or Leads Direct Marketing?</p> <p>13 A Whether we did? Yes.</p> <p>14 Q I'm sorry?</p> <p>15 A Whether we had an affiliation with them?</p> <p>16 Q No. Did Saveology do anything to</p> <p>17 investigate whether Paramount had an affiliation</p> <p>18 with the Direct Savings USA or Leads Direct</p> <p>19 Marketing?</p> <p>20 A Yeah, it would have been based off of</p> <p>21 Ryan's response.</p> <p>22 Q I'm sorry, explain that.</p> <p>23 A I can only ask Ryan does he have any</p> <p>24 affiliation with either one of these two companies,</p> <p>25 because we did not.</p>	<p style="text-align: right;">Page 169</p> <p>1 Q So is it fair to say Saveology did not</p> <p>2 have any idea how many sub affiliates its affiliates</p> <p>3 had?</p> <p>4 A Is it a fair -- I apologize.</p> <p>5 Q Is that a correct statement, Saveology did</p> <p>6 not have an idea of who the affiliates were of its</p> <p>7 sub affiliates?</p> <p>8 A I think I answered that prior.</p> <p>9 Q Okay. I apologize. And the answer was</p> <p>10 yes? Yes, because you said it was the secret sauce?</p> <p>11 A Correct.</p> <p>12 Q Fine. Did Saveology have any idea how</p> <p>13 many sub affiliates each of its affiliates had?</p> <p>14 A Again, there was no list. I think I</p> <p>15 answered this prior.</p> <p>16 Q Okay. That's fine. And we'll move on to</p> <p>17 the very last one. The subject of the e-mail is ADT</p> <p>18 Lead Providers Contract. In informing Jeremy that</p> <p>19 there are new affiliates that Robin does not have</p> <p>20 signed copies for.</p> <p>21 A Okay.</p> <p>22 Q My question is, were there companies</p> <p>23 marketing ADT products and services that did not</p> <p>24 have signed contracts with Saveology?</p> <p>25 A This doesn't have Jeremy's response to it.</p>



<p style="text-align: right;">Page 170</p> <p>1 Jeremy would have given me a detail as to what was  2 going on. Just because I saw something in security  3 tracks doesn't mean that they were actually driving  4 leads to us. Just because we set up a partner  5 company in security tracks doesn't mean that  6 everything was said and done.  7 Q Meaning that it could have been at the  8 beginning of the relationship?  9 A Correct.  10 Q And they hadn't actually started providing  11 the services at this point?  12 A Yes.  13 Q Typically, how long is it from the time an  14 affiliate becomes an affiliate until the time they  15 start providing services?  16 A Typically, there's not a typically, it's a  17 matter of all the approval process that we need to  18 go through, so sending out the agreement is to make  19 sure that they know that they need to abide by these  20 terms and conditions.  21 Q And is there any process for ensuring that  22 the affiliates return the signed addendum to  23 Saveology?  24 A Correct, they should not get any phone  25 numbers or training material until there.</p>	<p style="text-align: right;">Page 172</p> <p>1 (Signatures and Formalities were not  2 waived.)  3  4  5  6  7  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>
<p style="text-align: right;">Page 171</p> <p>1 Q But this e-mail says there are some new  2 affiliates that haven't signed a contract. So is  3 there a process to make sure that they timely return  4 their signed contracts?  5 A Oh, correct, that we had an ADT  6 receivables drive and those signed addendums could  7 have been in there.  8 Q I didn't hear you.  9 A There's a shared drive, sorry. And if,  10 there could have been signed agreements in there  11 that Robin may not have had a copy of yet, of the  12 countersigned agreement.  13 Q And it could have been where?  14 A In our shared drive. In our internal  15 shared drive.  16 Q Okay.  17 MR. MCNEW: You'll see and produce it?  18 MR. PISANI: Off the record.  19 (Off-the-record discussion.)  20 MS. GOLDBERG: I have no further  21 questions.  22 MR. PISANI: I have no follow-up. We will  23 reserve signature. Over at 250.  24 (Deposition concluded at approximately  25 2:50 o'clock p.m.)</p>	<p style="text-align: right;">Page 173</p> <p>1 CERTIFICATE OF OATH  2  3 STATE OF FLORIDA )  4 :SS  5 COUNTY OF PALM BEACH)  6  7 I, the undersigned authority, certify that  8 DAPHNE FERNANDES, personally appeared before me and  9 was duly sworn.  10 WITNESS my hand and official seal this  11 19th day of May, 2014.  12  13  14 _____  15 TAMBRIA LEE DERY  16  17  18  19  20  21  22  23  24  25</p>

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1 OATH OF REPORTER  
2  
3 STATE OF FLORIDA )  
:SS  
4 COUNTY OF PALM BEACH)  
5  
6 I, TAMBRIA LEE DERY, Court Reporter,  
7 certify that I was authorized to and did  
8 stenographically report the deposition of DAPHNE  
9 FERNANDES, that a review of the transcript was  
10 requested, and that the transcript is a true and  
11 complete record of my stenographic notes.  
12 I further certify that I am not a  
13 relative, employee, attorney, or counsel of any of  
14 the parties, nor am I a relative or employee of any  
15 of the parties' attorney or counsel connected with  
16 the action, nor am I financially interested in the  
17 action.  
18 DATED this 19th day of May, 2014.  
19  
20 \_\_\_\_\_  
21 TAMBRIA LEE DERY  
22  
23  
24  
25

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1 Veritext Legal Solutions  
2 290 W. Mt. Pleasant Ave. - Suite 3200  
3 Livingston, New Jersey 07039  
4 Toll Free: 800-227-8440 Fax: 973-629-1287  
5  
6 \_\_\_\_\_, 2014  
7  
8 To: Daniel W. Pisani, Esq.  
9  
10 Case Name: ADT Security Services, Inc. v. Elephant Group, Inc.  
11 Veritext Reference Number: 1837727  
12 Witness: Daphne Fernandez Deposition Date: 5/8/2014  
13  
14 Dear Sir/Madam:  
15 The deposition transcript taken in the above-referenced  
16 matter, with the reading and signing having not been  
17 expressly waived, has been completed and is available  
18 for review and signature. Please call our office to  
19 make arrangements for a convenient location to  
20 accomplish this or if you prefer a certified transcript  
21 can be purchased, which can be sent to you or the  
22 deponent directly.  
23  
24 If the jurat is not returned within thirty days of your  
25 receipt of this letter, the reading and signing will be  
deemed waived.  
Sincerely,  
Production Department  
Cc: Sara Goldberg, Esq.

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1 ERRATA SHEET  
2 VERITEXT CORPORATE SERVICES  
3 800-567-8658  
4 ASSIGNMENT NO. CS1837727  
5 CASE NAME: ADT Security Services, Inc. v. Elephant Group, Inc.  
6 DATE OF DEPOSITION: 5/8/2014  
7 WITNESS' NAME: Daphne Fernandez  
8  
9 PAGE/LINE(S)/ CHANGE REASON  
10  
11  
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Daphne Fernandez

SUBSCRIBED AND SWORN TO  
BEFORE ME THIS \_\_\_\_ DAY  
OF \_\_\_\_, 2014.  
\_\_\_\_\_  
NOTARY PUBLIC  
MY COMMISSION EXPIRES \_\_\_\_\_

[&amp; - 8]

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[8/16/11 - answer]

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